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PREVENTION OF DELINQUENCY, JUVENILE JUSTICE AND THE PROTECTION OF THE YOUNG: POLICY APPROACHES AND DIRECTIONS

Implementation of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice

Report of the Secretary-General

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INTRODUCTION

1. The prevention of juvenile delinquency and the administration of juvenile justice were accorded high priority by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and by the General Assembly at its fortieth session. On the recommendation of the Seventh Congress, the General Assembly adopted resolutions 40/33 and 40/35 on the subject, and resolutions 19, 20 and 21, adopted by the Seventh Congress, 1/ were endorsed by the General Assembly in its resolution 40/32.

2. One of the prime achievements of the Seventh Congress was the adoption of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), contained in the annex to General Assembly resolution 40/33. By this resolution, the General Assembly, inter alia, invited Member States to adapt, wherever necessary, their national legislation, policies and practices to the Rules and to bring them to the attention of the relevant authorities and the public in general. The Assembly also requested Member States and the Secretary-General to undertake research and to develop a data base on effective policies and practices in the administration of juvenile justice; to ensure the widest possible dissemination of the Rules, including the intensification of information activities in the field of juvenile justice; and to provide the necessary resources to ensure the successful implementation of the Rules, in particular in the areas of recruitment, training and exchange of personnel, research and evaluation, and the development of new alternatives to the institutionalization of young persons.

3. By the same resolution, the Eighth Congress was requested to review progress in the implementation of the Rules and of the recommendations contained in that resolution.

4. The Economic and Social Council, in resolution 1986/10, section II, entitled "Juvenile justice and the prevention of juvenile delinquency", requested the Secretary-General to assist Governments, at their request, in adapting legislation, policies and practices to the Rules. Member States were invited to inform the Secretary-General every five years of the progress achieved in the application of the Rules. In the same resolution, the Secretary-General was requested to report regularly on implementation of the Rules to the Committee on Crime Prevention and Control, beginning with its tenth session.

5. In 1987, in order to achieve world-wide application of the Rules and to identify the most effective ways and means of implementing those principles, the Secretary-General commenced a dialogue with Governments, government-appointed national correspondents, intergovernmental organizations, entities of the United Nations system and experts concerned with children's rights and juvenile justice. The text of General Assembly resolution 40/33 and of the Rules was circulated in the six official languages of the United Nations. This wide dissemination drew attention to their importance as a basis for the development of juvenile justice systems and policies, and as a specialized international instrument for the protection of young persons.

6. The Committee on Crime Prevention and Control, at its tenth session, held at Vienna from 22 to 31 August 1988, examined the first report of the Secretary-General on the implementation of the Rules, incorporating 34 replies (E/AC.57/1988/11).

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7. By Economic and Social Council resolution 1989/66, the Secretary-General was requested, inter alia, to submit an updated report to the Eighth Congress, for its consideration, on the progress achieved in the implementation of the Rules. The present report has been prepared accordingly.

I. JUVENILE JUSTICE ADMINISTRATION: TOWARDS THE IMPLEMENTATION OF THE STANDARD MINIMUM RULES

8. As of 20 April 1990, communications had been received from a total of 51 Governments: Algeria, Argentina, Austria, Bahamas, Belgium, Brazil, Burundi, Byelorussian Soviet Socialist Republic, Canada, Chad, China, Colombia, Cuba, Cyprus, Czech and Slovak Federal Republic, Finland, France, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Hungary, India, Indonesia, Italy, Japan, Jordan, Kuwait, Madagascar, Malta, Morocco, Netherlands, Nigeria, Norway, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Venezuela and Yugoslavia.

9. United Nations entities, including the Centre for Human Rights, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the various United Nations institutes for the prevention of crime and the treatment of offenders also made important contributions.

10. Information was received from the following intergovernmental organizations: the Arab Security Studies and Training Centre (ASSTC), at Riyadh, the Commonwealth Secretariat, the Council of Europe, the League of Arab States and the Pan Arab Organization for Social Defence against Crime. The non-governmental organizations providing information included: Child Hope, the Child Welfare League of America, Defence for Children International, the International Association of Judges, the International Association of Juvenile and Family Court Magistrates, the International Catholic Child Bureau, the International Commission of Jurists, the International Council of Psychologists, National Associations Active in Criminal Justice and Rädda Barnen International/Swedish Save the Children.

11. Additional information on this subject can be found in the report of the Secretary-General on the implementation of the conclusions and recommendations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/45/-).

12. Among the Governments of States that already had a formal juvenile justice system, some noted shortcomings that needed to be rectified. As far as they were able in the intervening five years, those Governments had taken steps to align their juvenile justice administration more closely with the Rules.

13. Governments of States where there was no juvenile justice system expressed a strong commitment to the spirit and aims of the Rules, as well as a desire to bring about compliance with them in the near future.

14. A number of Governments, namely the Bahamas, Burundi, Chad and Peru, reported that implementation had been delayed or was not currently feasible owing to a lack of resources. They called on the United Nations and the international community to render technical and financial assistance to facilitate the process of reform.

15. Some Governments, among them Austria, the Byelorussian SSR, France, German Democratic Republic, Germany, Federal Republic of, Greece, Hungary, the Netherlands, the Ukrainian SSR, the United Kingdom and the Union of Soviet Socialist Republics, having studied the extent to which the Rules were incorporated in their laws, reported that all or some of the Rules were reflected in their national systems.

16. In France, the Ministry of Justice had completed a study in 1987 designed to guide the course of action for translating the Rules into domestic law. The study revealed, however, that in the main, French law already reflected the spirit and objectives of the Rules. France had a separate juvenile justice system, with specialized personnel and multidisciplinary counsellors. Juvenile justice in France was also aimed at the protection, guidance of, and assistance to juveniles in conflict with the law. Consequently, any disposition of a case had to reflect the special situation and circumstances of the young person concerned. All procedural safeguards were guaranteed, and juvenile institutionalization was used as a last resort. Such a penalty could only be imposed after consultation with the educational agencies, which proposed ways of avoiding institutionalization, such as community service. If institutionalization could not be avoided, juveniles were strictly separated from adults. Since 1 March 1989, detention pending trial was no longer allowed for young persons under 13 years of age, irrespective of the offences committed, or for juveniles under 16 years of age charged with lesser criminal offences. New provisions limiting the duration of detention pending trial for juveniles had entered into force on 1 December 1989.

17. The USSR, in a broad comparison between Soviet legislation on juvenile justice and the Rules, found that the former generally complied with the latter. Certain legal concepts and institutions referred to in the Rules could not, however, be incorporated directly into Soviet legislation, as they were not part of Soviet law or legal doctrine relating to juveniles. Reference was made, specifically, to the status offences mentioned in rule 3.1 and the probation system described in rule 18.1. The probation system was foreign to Soviet legislation, although some aspects of it were applied in practice. For example, social education advisers for juvenile offenders were appointed by the courts, and rules of conduct were imposed when court proceedings were discontinued or the sentence suspended.

A. Dissemination of information

18. At the national level, nearly all Governments reported that the text of the Rules had been circulated to the competent authorities and ministries, agencies and individuals concerned. In the Czech and Slovak Federal Republic, the German Democratic Republic, Greece, Kuwait, Morocco, the Philippines, Portugal and Venezuela, they had been circulated to juvenile justice practitioners and decision-makers. Belgium, India, Italy and Switzerland had circulated them in connection with training activities and as a background for legislative reform. In Austria, France and the USSR, they had been disseminated with a view to ascertaining the extent to which the respective systems reflected the principles of the Rules. The Czech and Slovak Federal Republic, the German Democratic Republic, Germany, Federal Republic of, Greece and Italy reported that juvenile justice scholars were translating the Rules into languages other than those of the United Nations.

19. In most cases, the Rules were being disseminated among the professional community, including scientific, research and training institutions, universities and law schools. Czechoslovakia was also disseminating them to the public. In the Federal Republic of Germany, the Rules, together with

explanatory notes, had been widely distributed to persons involved in the administration of juvenile justice at all levels.

20. In the Philippines, the Rules, together with the Convention on the Rights of the Child (General Assembly resolution 44/25, annex), had been disseminated at the provincial, regional and national levels, through conferences involving the community, law enforcement agencies and non-governmental organizations concerned.

21. Venezuela reported that it had disseminated not only the Rules but also the findings on the procedures required for their effective implementation, as elaborated at the First Latin American Seminar on Training and Research on the Human Rights of Children vis-à-vis Juvenile Justice Administration, held at the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (UNLAI), San José, Costa Rica, in 1987. A substantial body of scientific literature and legal texts had been generated on the Rules, which figured prominently in juvenile justice articles and books, and which were stimulating scientific discussion among distinguished experts from various professions.

22. At the regional and interregional levels, the national correspondents, the United Nations institutes for the prevention of crime and the treatment of offenders and collaborating experts and organizations had been actively disseminating information and had been involved in related activities, particularly through regular publications. The United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) had been acting as a regional information clearing-house for data, reference material and literature on juvenile justice administration.

23. Intergovernmental organizations such as the Commonwealth Secretariat, the Council of Europe and the League of Arab States, as well as non-governmental organizations concerned with children's rights, particularly Child Hope, Defence for Children International, the International Association of Juvenile and Family Court Magistrates, the International Catholic Child Bureau, the International Commission of Jurists and Rädda Barnen International/Swedish Save the Children, reported that the Rules had been given wide distribution in the course of their regular activities, including meetings.

24. Special publications on the Rules had been issued by various organizations. For example, the Rules had been published in the special issue of the Journal of the Council of Arab Ministers of Justice of the League of Arab States, which is distributed throughout the Arab world, and brought to the attention of all Arab justice ministries. The Rules had been included in Human Rights: A Compilation of International Instruments, 2/ published on the occasion of the fortieth anniversary of the Universal Declaration of Human Rights, and in a compendium of United Nations crime prevention and criminal justice standards, issued by the Soviet Ministry of the Interior.

B. Promotion of the policy approach and principles of the Rules

25. Various organizations and institutions reported that different aspects of the Rules were being given special attention and were being promoted in the context of their regular programmes of work, and that activities were being undertaken and envisaged in co-operation with the United Nations Secretariat. Particularly noteworthy was the advocacy role of the non-governmental organizations, such as Defence for Children International, the International Association of Juvenile and Family Court Magistrates and the International

Catholic Child Bureau, which were fostering the application of the Rules in voluntary and community-based projects and services.

26. Among the prominent intergovernmental organizations that considered the Rules to be of direct interest to their work, and that reported efforts to disseminate them as widely as possible and to foster their implementation were the Commonwealth Secretariat, through its Commonwealth Law Ministers and Correctional Agencies; the Council of Europe through its Committee of Ministers and Select Committee of Experts on Juvenile Delinquency; the League of Arab States through its Council of Arab Ministers of Justice and Council of Arab Ministers of the Interior, and the Pan Arab Organization for Social Defence against Crime.

27. The Rules were reported to have been one of the main topics on the agenda of the Sectoral Meeting on the Development of Human Resources in the Arab World, held in August 1987 within the framework of co-operation between the League of Arab States and the United Nations, in pursuance of General Assembly resolution 41/4. The League of Arab States, particularly through the Council of Arab Ministers of Justice, was pursuing activities to unify Arab legislation and, in that connection, indicated a special interest in the Rules as a basis for the codification and harmonization of juvenile law and codes of procedure.

28. The Select Committee of Experts on Juvenile Delinquency of the Council of Europe had drawn up recommendations on social reactions to juvenile delinquency (Recommendation No. R(87)20) and on social reactions to juvenile delinquency among young people coming from migrant families (Recommendation No. R(88)6). The Rules were cited in the explanatory memoranda to those recommendations.

29. The implementation of the Rules also figured prominently in the work programme of various United Nations institutes. For example, UNLAI, in co-operation with Defence for Children International, the Inter-American Institute of Human Rights, the Organization of American States and the University for Peace, had established a special training programme to promote the implementation of the Rules in the Latin American and Caribbean region. A series of regional and subregional training and evaluation seminars had been held in Colombia, Costa Rica, Mexico and Uruguay in 1987 and 1988. The seminars had examined children's rights in juvenile justice administration and considered the justice infrastructure and machinery required for the effective and expeditious implementation of the Rules in the region.

30. UNAFEI had been directly involved in developing the Rules, having held a five-week international seminar on that subject at Fuchu, Japan, in 1983. The Institute had conducted an international training course on the effective administration of juvenile justice from 17 September to 7 December 1985, following the adoption of the Rules in 1985. The course had been attended by 26 practitioners from 16 countries, who had reported on the status of compliance with the Rules in those countries. The gaps between the principles contained in them and actual practice had been examined and concrete modalities proposed for their implementation. The course had served as a starting point for the development of guidelines and implementation modalities, using the Rules as a model.

31. The Institute had continued to help countries of the region to translate the international norms into practice and to establish effective implementation modalities, especially through the development of regular training programmes, seminars and workshops for juvenile justice practitioners and decision-makers.

UNAFEI had sponsored jointly with the Economic and Social Commission for Asia and Pacific (ESCAP) an Expert Group Meeting on Adolescence and Delinquency Prevention in the Asia and Pacific region, held in Tokyo from 3 to 10 August 1989. The Meeting, attended by 22 experts from 16 countries of the region, had been devoted to the discussion of the Rules from the standpoint of their implementation in each country. It had adopted, inter alia, a recommendation calling upon the countries of the region to make special efforts to incorporate the Rules in their respective legal, administrative and social development frameworks.

32. The African Institute for the Prevention of Crime and the Treatment of Offenders had held a seminar in 1988 for French-speaking government officials and practitioners from Africa. The seminar had been held at the headquarters of the Economic Commission for Africa (ECA) and had focused on strategies for the prevention of juvenile delinquency in the context of development and on the administration of juvenile justice with particular reference to the Rules.

33. ASSTC had continued to promote the development in the Arab world of juvenile justice systems based on the Rules, through its research, training, technical advisory services and publication programme. Regional and international seminars and expert group meetings had been held in recent years to discuss delinquency prevention, juvenile justice and alternatives to juvenile incarceration. In 1985, ASSTC had organized a regional seminar on the institutional treatment of young persons, with special reference to the Rules.

34. The Child Welfare League of America reported on its International Child and Youth Care Conference, held at Washington, D.C., in March 1988. The Conference had examined the impact of reforms in legislative and judicial systems designed to enhance child protection, in the context of international standard-setting. The International Council of Psychologists reported on the first symposium it had organized on the Rules from the perspective of child mental health, held at Singapore from 21 to 25 August 1988.

35. A sub-committee of the National Associations Active in Criminal Justice was formulating measures for the implementation of the Rules, after having examined them in the context of Canadian crime prevention policy and the Canadian Young Offenders Act. The twelfth Congress of the International Association of Juvenile and Family Court Magistrates, held at Rio de Janeiro from 24 to 29 August 1986, had adopted a resolution stressing, inter alia, the need to provide for and respect a minimum of rights and guarantees, consonant with the Rules, during juvenile justice proceedings in all countries.

36. Within the United Nations system, there had been various substantive activities and programmes concerned with different aspects of the Rules. The Centre for Human Rights was ready to provide advisory services to Governments wishing to implement the Rules as part of their efforts to promote human rights. It should be noted that the final text of the recently adopted Convention on the Rights of the Child (General Assembly resolution 44/25, annex) not only reflects the principles embodied in the Rules but also takes into account further developments related to the formulation of new standards, particularly in articles 37 and 40.

37. The Sub-Commission on Prevention of Discrimination and Protection of Minorities reported that it had been carrying out work on the human rights of detained juveniles, taking into account the relevant provisions of the Rules.

38. UNHCR was continuing to work towards providing international protection for all refugees, including juveniles and children. One of its main concerns was the detention of young refugees. It sought to ensure the application of the Rules and the implementation of General Assembly resolution 40/33 in order to meet those concerns.

39. A seminar on the prevention and treatment of juvenile delinquency through community participation had been held at Beijing from 19 to 24 October 1988, in order to promote the implementation of the Rules. The Seminar had been organized by the Crime Prevention and Criminal Justice Branch and funded by the Department of Technical Co-operation for Development, with the Ministry of Justice of China as host. Participants from 23 countries had attended the Seminar and adopted recommendations covering various aspects of juvenile justice.

40. In 1988, the Pan Arab Organization for Social Defence against Crime had held at Tripoli a symposium on the Rules for Arab States.

41. The eighty-first Inter-Parliamentary Conference, held at Budapest from 13 to 18 March 1989, had unanimously adopted a resolution on the protection of the rights of children, in which, inter alia, parliaments were urged to review national laws and practices concerning juveniles to ensure compatibility with the Rules.

C. Legislative reform: substantive and procedural law

42. Basing their action on the Rules, a number of Governments reported having enacted or initiated major legislative reforms in substantive or procedural law and having taken progressive measures to that effect. Intergovernmental conferences and organizations, such as the Meeting of Commonwealth Law Ministers, the Commonwealth Secretariat, the League of Arab States and the Pan Arab Organization for Social Defence against Crime, were promoting legal reform for juveniles with the Rules in mind.

43. In Argentina, draft national juvenile law codes were being studied and mechanisms for their proper legal implementation were being evaluated. Two drafts had been brought before the Chamber of Deputies for discussion, namely, "Establishment of a juvenile court under the judiciary" and the "Children's and Youth Code". The draft Code of Penal Procedure, currently under study, embodied provisions concerning special trial arrangements for young persons over 18 years of age.

44. In Austria, the most important elements of the Rules had been included in the new Juvenile Court Act, which had entered into force on 1 January 1989. A wide range of measures to divert juveniles from the justice system had been made available; detention pending trial had been further reduced; the age of criminal responsibility had been raised to 19 years; and, in compliance with rule 3.3, special provisions were made for the treatment of young adults up to the age of 27.

45. The Government of Belgium reported that a new bill had been introduced into Parliament in 1987 to bring existing legislation up to date in the light of developments in the theory and practice of juvenile justice administration and in relation to the Rules. The bill had been initiated by the Minister of Justice after a complete review of the juvenile justice system. The law of 1965 had, accordingly, been revised with regard to the right of appeal and right to counsel, the duty on the part of the judicial authorities to review their decisions at least every six months and the introduction of new

non-institutional measures. With regard to the right to counsel, for instance, the former law had made no provision for legal aid until the final stage of proceedings, depriving juveniles of adequate defence during the preliminary proceedings. The new bill provided free legal aid in cases where the juvenile court had issued temporary orders for the removal of the juvenile from the parents or guardians. Either the president of the Chamber of Advocates or the Legal Advice and Aid Bureau must appoint a lawyer to represent the interests of the young person.

46. In Cyprus, a special commission had been appointed by the Minister of Justice to review criminal policy, with particular reference to the treatment of juvenile offenders, in the context of the Rules. Also, an ad hoc committee had been appointed by the Council of Ministers in January 1986 to examine the treatment of juvenile delinquents under domestic law, and its recommendations had been adopted by the Council of Ministers in 1987. As a result, the law had been amended so as to abolish the institutional treatment of young offenders; the only exception was custody in a youth centre in cases of a serious offence and recidivism. Existing non-custodial measures, including probation and similar orders, had been strengthened, and new alternatives to incarceration, such as community service and the compensation of victims, had been introduced.

47. In Finland, the new Act on Pre-trial Investigation and the Act on Coercive Means, both containing provisions on juvenile offenders, had entered into force on 1 January 1989. There were special provisions for minors under 18 years of age and their treatment in pre-trial investigations: young persons under the age of 15 years were entitled to further safeguards when being questioned. Recourse to arrest or custody was to be avoided when those measures seemed excessive in relation to the circumstances of the case and the age of the offender.

48. In 1989, the Finnish Government had submitted a bill to Parliament, under which juvenile offenders under 18 years of age would not be sentenced to unconditional deprivation of liberty unless the circumstances were serious enough to warrant such action. Another bill had also been submitted, concerning the extension of the prosecutor's option to waive prosecution or to dismiss the indictement on grounds of the offender's youth. The two bills were currently under consideration.

49. In France, since 1 December 1989, whenever a court handed down a sentence of deprivation of liberty for not more than six months to be served in full, the judge responsible for the enactment of the sentence could refer the case back to the court with a view to its commutation to community service. The Parliament was currently working on the reform of the Penal Code and significant amendments to the penal legislation applicable to juveniles would be set forth in a draft law to be submitted by the Government. The proposals for the preliminary draft made specific reference to the relevant work of the United Nations.

50. In Hungary, the Minister of the Interior and the Minister of Justice had issued, in connection with the 1986 press law, a joint decree on information on criminal and judicial matters. In accordance with rule 8, the decree laid down, inter alia, rules governing the publication of information on court decisions and, in respect of juveniles, provided that the family name of a juvenile could be referred to only by the initial letter, except when a grave offence was involved. The features and voice of a juvenile could only be made public under conditions that would prevent identification, except in the case of grave offences, as specified in the criminal code.

51. Indonesia reported that a new law reforming the juvenile justice system was being drafted, taking the Rules into account. In the meantime, the Government had issued legal provisions concerning the administration of juvenile justice.

52. In Kuwait, the juvenile law had been amended to comply with the Rules. It currently contained a number of measures governing the care of juveniles in trouble and specifying the facilities and shelter to be provided.

53. Since 1985, 46 large-scale diversion programmes had been set up in the Netherlands. They had proved quite effective for offences such as vandalism, the graffiti-writing and aggressive acts. Their applicability was to be extended to shoplifting.

54. In Norway, authorities were revising the country's laws and procedures concerning juvenile justice.

55. Qatar reported that a bill on juvenile justice had been drafted and was under consideration.

56. In the Philippines, resolutions were pending in the Upper and Lower Houses, calling for the re-establishment of the juvenile and family courts to deal with all matters concerning juveniles in conflict with the law. The Department of Social Welfare and Development had endorsed the proposal and had also advocated the establishment of juvenile detention facilities to protect juveniles from the negative influence of adult offenders. The Department had also recommended the creation of a juvenile bureau in every police station.

57. In Portugal, a comparative study of the Rules in relation to the existing laws on the protection of juveniles, undertaken by the Ministry of Justice, had revealed certain shortcomings and the need for reform. The Government therefore envisaged a thorough revision of the existing laws to meet the universally accepted standards laid down in the Rules.

58. In Sweden, in accordance with rules 18 and 19, Parliament had adopted amendments to the Criminal Code introducing the new concept of "contract treatment", a form of civil commitment entailing individualized, non-institutional care. The treatment was designed for cases in which it could be assumed that drug and other substance abuse or other particular circumstances requiring attention were contributing factors in the commission of an offence. A sentence of contract treatment could be included in the probation order. The juvenile concerned would volunteer to undergo specific treatment and the institution or other body responsible must notify the prosecutor or probation officer if the treatment was not properly followed. In that event, deprivation of liberty would be substituted for the probation order. The court was empowered to order the person sentenced to contract treatment to be kept under supervision for a period longer than would be usual in a probation order.

59. In October 1989, the Swedish Government had submitted a bill to Parliament with proposals for experimental community service. The scheme was designed for young persons between 18 and 24 years of age and could only be applied to offences punishable by deprivation of liberty. Persons sentenced to community service would perform unpaid work in their leisure time for a number of hours, ranging from 40 to 200 hours, as specified by the court. Pilot experiments would be carried out in five places over a period of three years.

60. In 1987, Switzerland had undertaken a complete review of its legislation as it applied to young persons. The experts on the review commission had been provided with copies of the Rules as part of the background documentation. Representatives of the federal authorities had been appointed to monitor the commission's work and had been charged with drawing the members' attention to the Rules.

61. The Ukrainian SSR reported that new draft Fundamentals of the Criminal Legislation of the Union of Soviet Socialist Republics and Union Republics had been published for country-wide discussion. A special section of the draft set out provisions concerning the treatment of juvenile offenders, which for the minimum use of deprivation of liberty and maximum recourse to other disposition measures for young persons under 18 years of age.

D. Age of criminal responsibility

62. Many countries provided information on the lower age limit of criminal responsibility. Several noted that legal initiatives had been taken to raise that age limit and to commute the death penalty for young persons.

63. In Argentina, minors up to 16 years of age could no longer be charged under any circumstances. Minors between 16 and 18 years of age who committed a serious offence could be held criminally responsible, but a penalty would not be imposed unless absolutely necessary. Young persons between the ages of 18 and 21 who had been sent by the competent judge to institutions of the Federal Penitentiary Service received special treatment and were kept separate from adults.

64. Burundi had established the age of criminal responsibility at 13 years. Juveniles between 13 and 18 years of age were recognized as having diminished responsibility. For them, the maximum penalties of death and life imprisonment were replaced by incarceration lasting from 5 to 10 years.

65. In China, the age of criminal responsibility was fixed at 16, except for very serious offences, when the age was 14. Juveniles between the ages of 14 and 18 were given lesser penalties. The parents or guardians of young persons who were not punished because they were under 16 were ordered to subject them to discipline. When necessary, juveniles could be provided shelter by the Government.

66. Colombia reported that, with the new Juvenile Code, which embodied all legislation concerning juveniles, the age of criminal responsibility had been raised from 16 to 18 years. That limit could be raised further if the juvenile concerned was psychologically immature. Special procedural safeguards were available for juveniles between 12 and 16 years of age. Minors under 12 years of age were not subject to the criminal law. The Family Defence Counsel, who did not himself have the competence to administer justice, had cognizance of violations of the criminal law in which persons of less than 12 years were involved, in order to offer them the special protection they required.

67. In Cuba, minors under 16 years of age could not be tried by ordinary courts. The Penal Code of 1979 had been amended by Law 62 of April 1988, which provided that persons under 20 years of age should serve their sentence in special institutions or in separate sections of institutions from those in which adults were detained; similar provisions were made for persons between 20 and 27 years of age. Lesser penalties might be imposed on juveniles between the ages of 16 and 20 years. The death penalty was not applicable to persons under 20 years of age.

68. According to the Penal Code of Japan, minors under 14 years of age could not be held criminally responsible. Under the Juvenile Law, young persons under 16 years of age were not liable to any penal sanctions and no person who was under the age of 18 when the offence had been committed could be sentenced to death.

69. In Jordan, a juvenile was defined as any person, male or female, who had completed his or her seventh year and not attained the age of 18. Juvenile offenders could not be sentenced to death or to hard labour, and the sanctions imposed on them were considerably reduced. If a juvenile had committed a misdemeanour or a contravention, the court had discretionary authority to choose from a range of alternative sanctions, taking into account the immaturity and inexperience of the juvenile concerned.

70. In Nigeria, the Children and Young Persons Act contained provisions limiting the liability to penal sanctions of persons under 17 years of age, although the age of criminal responsibility was still, under a law dating back to 1878, fixed at 7 years, while children between the ages of 7 and 12 years were considered criminally responsible if they were found to be capable of discernment. Those provisions were no longer applied, having been superseded by the Children and Young Persons Act.

71. Under the laws of Portugal, juveniles under the age of 16 were not held criminally responsible, although they were subject to juvenile courts and measures designed to protect, educate and assist them under circumstances specified in the law on the protection of juveniles.

72. In Romania the age of criminal responsibility was fixed at 16. In practice, but only in cases where juveniles were found to have been capable of discernment and of understanding their behaviour, whether act or omission, the limit might be lowered, but not below the age of 14. Since the law provided exclusively for educational measures, under no circumstances could fines, prison sentences or the death penalty be imposed. The law permitted juvenile offenders between the ages of 14 and 18 to be placed in the care of fellow workers and students.

73. In Rwanda, the Penal Code fixed the minimum age of criminal responsibility at 14. Juveniles between 14 and 18 years of age were looked upon as having diminished responsibility: they were entitled to lesser penalties and could not be sentenced to capital punishment.

74. In the Ukrainian SSR, persons who were at least 16 years old at the time of the commission of the offence could be held criminally responsible. Young persons between the ages of 14 and 16 could be held responsible only for a strictly limited list of serious offences. An educational measure not representing a criminal sanction could be imposed on a young person if his or her offence did not represent a great danger to society.

E. Juvenile courts

75. Most of the reports received noted that separate juvenile courts had been or were being established to deal with juveniles in conflict with the law. In Argentina, a minor of 18 years of age who committed an offence prosecutable under a criminal statute fell under the jurisdiction of the juvenile justice system, which was required to monitor any ensuing supervision or custody.

76. During the period between the end of 1984 and the time of writing, in more than 100 Chinese lower people's courts, special tribunals - juvenile

courts - had been established to consider cases of offences committed by minors between the ages of 14 and 18. In eleven middle-level people's courts, special tribunals for the review of the proceedings of the juvenile courts had been set up. In the adjudication and disposition of criminal cases involving the young, the juvenile courts complied strictly with the special procedures specified by the Chinese Code of Penal Procedure.

77. In Colombia, juvenile courts were composed of interdisciplinary teams, which included at least one physician, one psychologist or psychological teacher and one social worker.

78. In Indonesia, which did not yet have any juvenile court structure, the Penal Code, in the meantime, granted certain privileges to juveniles within the framework of the adult criminal justice system.

79. In Morocco, in order to minimize the psychological impact of the legal proceeding on the juvenile, hearings were held in ordinary offices without a formal set-up. Juvenile judges were selected members of the judiciary, including women.

80. In Nigeria, juvenile courts were constituted by a magistrate, either sitting alone or with assessors. The magistrate was usually a lawyer or social worker with long-standing experience in the field of juvenile justice and the protection of youth.

81. In Poland, all cases involving juveniles were under the jurisdiction of family courts, which investigated the family situation and social background. Special provisions were in force for the hearings of these Courts. Penal procedure was applied to juveniles only if they committed extremely grave offences.

82. In Sri Lanka, there was one juvenile court in Colombo, with jurisdiction over two judicial divisions. In all other judicial divisions, a magistrate sat as the Juvenile Court Magistrate in all matters pertaining to young persons. Conviction or being found guilty should in no case be regarded as a criminal sentence for the purpose of disqualification.

83. In Spain, the General Council of the Judiciary had adopted a number of agreements in 1986, with a view to organizing the juvenile justice bodies in accordance with the principle of exclusivity of jurisdiction and the criterion of specialization of those exercising it. A training programme had been established, in accordance with the Rules, to ensure that the judges working in the new juvenile courts were specialized in juvenile justice. The proceedings of those new courts complied with the guiding principles on adjudication and disposition set out in rule 17 and the basic procedural safeguards called for in rule 7.

84. Thailand reported that cases involving offences committed by a child between 7 and 14 years of age, or a young person between 14 and 18 years of age, fell under the jurisdiction of a central juvenile court and several provincial juvenile courts. Those courts were specialized and their proceedings differed from those of other courts, the best interests of the minor being the paramount consideration in adjudicating the case.

85. In Yugoslavia, all the courts of the republics and the autonomous provinces had juvenile boards. All regular courts had one or more juvenile judges. The juvenile board operating within courts of the first and second

instance was composed of a juvenile judge and two jurors. The jurors were professors, teachers, educators and other persons with relevant experience.

F. Custodial facilities, treatment and care

86. Many Governments indicated that, in compliance with rule 19, the deprivation of a juvenile's liberty was a measure of last resort. Various dispositions were often used as an alternative to institutionalization. Argentina reported that, in the last quarter of 1989, alternative programmes to avoid institutionalization by supporting the natural or substitute family had increased by 50-100 per cent, both in terms of goals and services.

87. Belgium reported that discussions were taking place between the Youth Protection Office and the Ministry of National Education to ensure that the education and vocational training of juveniles in closed institutions, which had not previously been recognized by the Ministry of National Education, would be recognized in future.

88. In Cuba, juvenile offenders were not subject to penal sanctions; an educational rather than punitive system of evaluation and treatment had been established. The education task was imparted in "schools of good conduct", directed by the Ministry of Education, or in re-education centres under the supervision of the Ministry of Interior.

89. Indonesia reported mixed occupancy of penal facilities by males and females, as well as by juveniles and adults, in cases where the incarceration of juveniles could not be avoided. Mixing groups of females up to 18 years of age and males up to 14 years of age had been successful because it offered interpersonal contacts approximating those of everyday life. Mixed groups of juveniles and adults, however, had been found to be counter-productive because they often led to violence.

90. In translating the norms of the Rules into practice, Kuwait had established a juvenile "complex" on 4 March 1987. The complex included a juvenile court, the Juvenile Prosecutor's Office, the Juvenile Police and the Department of Juvenile Care, which housed special workshops for training, sport, medical, educational and religious facilities. It also comprised field institutions affiliated with the Department of Juvenile Care, including a reception centre that dealt with young persons who were brought before the juvenile care authority; social-care homes; a monitoring office for the study of juvenile delinquents and those in trouble or at social risk; and an office responsible for submitting case reports to the competent authorities.

91. In Malta, the juvenile justice system provided a wide spectrum of disposition measures. Although community service orders were not specifically mentioned, a requirement that a person perform some sort of supervised community service had occasionally been appended to a probation order. The introduction of suspended sentence supervision orders was being considered.

92. In Morocco, educational rather than punitive measures were imposed on juvenile offenders. The relevant legislation, entitled "Protection and Reform Measures", was aimed at rendering assistance and fostering social integration. Deprivation of liberty was a measure of last resort, and the minimum and maximum terms provided for by law were reduced by one half for juveniles. Capital punishment and life-term sentences were totally excluded by the law.

93. In the United Kingdom, the practice of separating juvenile offenders from adults varied according to sex. Most young males were kept in separate young offender accommodations. When that was impossible, they might mix with carefully selected adults under close supervision by the staff. Young and adult female offenders were mixed in order to allow flexible use of limited accommodation.

94. In Yugoslavia, juvenile offenders were usually given educational treatment. The Penal Code contained provisions restricting the application of the deprivation of liberty to juveniles who had committed very serious offences, and only when their criminal responsibility could be ascertained.

G. Professionalization of juvenile justice personnel

95. The numerous changes taking place in various systems are enhancing professionalism in the administration of juvenile justice, either directly or indirectly, in all sectors and at all levels. The great importance accorded to enhancing the professionalism of personnel, as well as to the level and quality of the services provided, as called for in rule 22, is given prominence in the reports of most countries, namely Argentina, Austria, Belgium, China, Cuba, France, Ghana, India, Indonesia, Italy, Japan, Kuwait, Madagascar, the Netherlands, Peru, the Philippines, Portugal, Rwanda, the USSR and the United Kingdom.

96. For example, Argentina reported that, for the first time, a process of evaluation and rating of personnel concerned with juveniles was being carried out and would be completed in November 1990 by the Ratings Board. In China, personnel dealing with young offenders participated in regular specialized training courses. In Peru, professional training courses were held regularly for personnel dealing with juveniles in custody. Portugal had taken steps to improve the technical training of judges who presided over juvenile cases and special courses and seminars were also offered to the staff of service-delivery agencies. In the United Kingdom, women and members of ethnic minorities in the juvenile justice system were being better represented. Venezuela was according high priority to training: all law enforcement officers engaged in juvenile justice administration were given specialized training; and juvenile justice personnel were selected on the basis of their knowledge, experience and commitment.

H. Community involvement and prevention of delinquency

97. Many Governments reported an intensification of community involvement in juvenile justice administration, in line with rule 25. In China, emphasis was placed on the involvement of the community in juvenile justice administration and prevention of delinquency. Minor offences were handled by local districts and units responsible for organizing direct community-based assistance, involving the services of educators, representatives of neighbourhood committees, law-enforcement personnel and parents or guardians. The Government reported on the extensive measures taken for juvenile delinquency prevention in the political, economic, cultural, health and educational spheres.

98. In Cuba, a law enacted in 1986 had set up the Social Prevention and Care Commission, one of the priorities and functions of which was the prevention of juvenile delinquency.

99. The rehabilitation of young offenders through community-based action was given high priority in Indonesia and was promoted at the informal level by existing social agencies.

100. In Japan, the programme for the rehabilitation of juvenile offenders was based on close teamwork by government agencies and volunteer organizations. With a view to increasing public awareness of the programme, a nation-wide comparison for the prevention of delinquency, the "Brighter Society Campaign", was organized every year under the auspices of the Ministry of Justice.

101. In Madagascar, special attention was being paid to community participation in the social integration of young offenders. Volunteers were involved in the work as much as possible.

102. In the Netherlands, the collaboration of a great number of non-profit-making organizations, as well as of members of the public at large, had been an important element in the successful development of more community-based alternative sanctions.

103. In the Philippines, high priority was given to the community-based rehabilitation of juvenile offenders, through which they were encouraged to interact with the social environment and support systems, with a view to being completely reintegrated into society.

104. In the USSR, social and legal means of prevention were concerned with offsetting the negative factors that caused juvenile crime and delinquency (e.g. substance abuse). The country also reported having successfully intensified its preventive programmes, with emphasis on education. In 1985, for example, a graduate programme of universal pedagogical education for parents of children of all ages had been introduced. Consultation centres had been set up, where parents received psychological and pedagogical assistance, as well as legal counselling. Over a hundred tasks had been formulated, including the building of new and improving old equipment and facilities, enhancement of the professional standard of the personnel, and proposals for enacting new legislative measures.

105. The United Kingdom reported that great emphasis was placed upon the need for juvenile offenders to be dealt with in the community wherever possible. Many facilities offering intermediate treatment programmes were run by voluntary organizations.

106. Yugoslavia reported that assistance programmes, organized by the appropriate social services and involving various socio-political bodies, such as youth and school organizations, contributed to the reintegration of juvenile delinquents into society.

I. Research

107. Many countries noted that evaluative research was being carried out on different aspects of the prevention of juvenile delinquency and past and current juvenile justice operations, as a basis for reforms that would accord with the Rules. Forward-looking research was also being undertaken as a foundation for effective and viable short-term and long-term policy and programme development and planning.

108. In Canada, the National Association of Friendship Centers was planning to introduce a comprehensive and broadly accessible computer-based data-collection system throughout the country to facilitate the exchange of data and research findings on juvenile justice.

109. In China, in May 1988, the Supreme People's Court had convened the National Conference on the Adjudication and Disposition of Criminal Cases

Involving Juveniles, at which discussions were held, inter alia, on the guidelines and principles for establishing juvenile courts in China, methods of adjudication in juvenile courts and ways to establish a juvenile justice system within the framework of the Chinese legal system.

110. In the Czech and Slovak Federal Republic, research on juvenile delinquency and crime had begun in 1987, as a basis for further multisectoral action. Priority concerns included relatively specific causes, such as alcoholism among young people and abuse of narcotic drugs and other substances by the young, as well as more general causes, to be determined by a thorough examination of cases.

111. In Ghana, the research unit of the Department of Social Welfare had been re-organized and efforts were being made to promote the necessary research programmes as a basis for effective planning and policy formulation. A system for the collection and evaluation of statistical data on the administration of juvenile justice was being established.

112. The Pan Arab Organization for Social Defence against Crime reported that it planned to carry out studies against Crime on legislation and practices in the Arab world in relation to the Rules.

J. International co-operation and co-ordination

113. Many Governments expressed a strong interest in regional and international co-operation in juvenile justice on the part of practitioners, experts and decision-makers. They stressed the central role of the United Nations Secretariat as a co-ordinating body and clearing-house for efforts to use the Rules as an instrument for the development of juvenile justice systems. The importance of the United Nations was emphasized in monitoring and assisting in the application of the Rules, in long-range planning activities, and in the implementation of joint model projects and programmes.

114. The Government of the USSR, for example, expressed its commitment to scientific co-operation and collaboration on the prevention of juvenile delinquency with criminologists of other countries. Such co-operation could, in its view, include the systematic exchange of information, research and methodology and the organization of conferences on specific questions.

115. The Governments of the Bahamas, Burundi, Chad and Peru stressed the urgent need for United Nations technical assistance and funding in order to translate the principles of the Rules into practice.

116. Proposals were made for close co-operation by the United Nations Office at Vienna in the activities of the Council of Arab Ministers of Justice aimed at implementation of the Rules. They included: (a) seminars for Arab experts on Arab legislation and international standard-setting and norms concerning juveniles; (b) courses for Arab juvenile justice practitioners with a view to familiarizing them with the basic principles and philosophy of the Rules; and (c) exchange of information, research and studies on internationally adopted policies and procedures followed in the administration of juvenile justice, pursuant to General Assembly resolution 40/33 and the Rules.

II. MAJOR INSTITUTIONAL REFORM

117. Broad and far-reaching measures and major institutional reforms have been undertaken by many Governments. The very comprehensive replies provided by the Governments of Canada, India and Italy, which illustrate the importance

and level of efforts undertaken by Member States in general, are summarized below.

A. Canada

118. To bring the existing juvenile justice system up to date in the light of the latest research findings at the national and international levels, and in anticipation of the Rules, which it had helped to formulate, Canada enacted the Young Offenders Act in 1984. The Act subscribes to the view that intervention by the juvenile justice system should be reduced to a minimum (rule 1.3) and that the use of institutionalization should be used only as a disposition of last resort (rules 13.1 and 19.1).

1. Age of criminal responsibility

119. Before enactment of the Young Offenders Act, juvenile justice was administered under the Juvenile Delinquents Act, under which the minimum age of criminal responsibility had been set at 16, and the provinces had been allowed to set different minimum ages for female and male juveniles. To unify the legislation and raise the age of criminal responsibility, the Young Offenders Act distinguishes children from juveniles. Children, defined as persons under 12 years of age, are regarded as incapable of criminal intent and thus not responsible for their behaviour. Juveniles, defined as persons 12 years of age or more but under 18 years of age, are considered to be capable of criminal intent and are thus criminally liable. The Act establishes a new régime for youthful offenders, ensuring due process rights and protections and mitigated accountability.

120. It gives juveniles the right to be heard and to participate in the processes that led to decisions affecting them. In view of their usually limited economic resources and the state of their emotional and intellectual development, juveniles should have special guarantees of their rights and freedoms. The Act provides safeguards and procedures that meet the various special needs of juveniles.

2. Status offences

121. A major feature of the Young Offenders Act refers to rule 3.1. Under the old Act, children were charged with the offence of delinquency for infractions of federal statutes and regulations, provincial statutes and municipal by-laws. They were also subject to proceedings for status offences of "sexual immorality or any similar form of vice", and the statutes of some provinces included conduct labelled "incorrigibility", "truancy" and "unmanageability". Such broad jurisdiction was considered to be discriminatory against juveniles, as it criminalized behaviour that was not considered illegal or punishable when committed by adults. Status offences are no longer used in the current legislation.

3. Diversion

122. The use of diversion has been strengthened by the Young Offenders Act. It gives investigative and prosecutorial authorities the discretion to determine whether or not criminal proceedings should be initiated. Police and prosecutors may exercise their discretionary power and refrain from pressing criminal charges where non-intervention, for reasons other than the insufficiency of evidence, would not jeopardize the overriding requirement of protecting society. Such non-intervention may take the form of discontinuing an investigation or prosecution, for example when family members are able to

assume supervision or when it is apparent that the interests of all concerned would be better served by referral to child care, health, treatment or other services. Intervention by the justice system is reserved for only the most difficult cases, and the notion of last resort is being applied increasingly to the use of institutionalization (rules 13.1 and 19.1).

4. Juvenile detention

123. The Charter of Rights and Freedoms guarantees the right to reasonable bail and to a speedy trial, and the Young Offenders Act incorporates the judicial interim release provisions of the Criminal Code.

124. With respect to restrictions on the placement of juveniles in detention facilities (rule 19.1), it provides for a full range of alternative measures (rule 25). It also emphasizes restitution and the compensation of victims. It encourages community-based dispositions, such as community service orders, and it considers measures of restraint, such as custodial disposition, as remedies of last resort. If a custodial order is issued, the youth court must decide whether open or secure custody is appropriate.

B. India

1. Law reform

125. India enacted its Juvenile Justice Act in 1986 and Model Rules in 1987 in direct response to the Rules and in order to integrate them into the national legislation. The Juvenile Justice Act focuses on juvenile delinquents, defined as males under the age of 16 and females under the age of 18. It establishes a juvenile justice system completely separate and distinct from the system for adults. The Model Rules of 1987, which were developed by the National Institute for Social Defence of the Ministry of Welfare, are intended to transfer the powers conferred by the Juvenile Justice Act to the state governments and administrations and are thus subject to adoption in the individual states of India. They contain detailed provisions governing, inter alia, the qualification, training, organization and supervision of staff, the overall management of juvenile institutions, and the handling and treatment of juveniles in trouble and in conflict with the law.

2. Organizational reform

126. The juvenile justice system governed by the new Model Rules designates the Board for Neglected Juveniles whose members should be qualified magistrates with a special knowledge of child psychology and child welfare, as the competent authority, and the Juvenile Court. Its magistrates are appointed by the Government and are assisted by a panel of social workers, appointed by the state governments. The latter are empowered to create new boards and courts, and where no such boards or courts exist, any other court may be empowered to deal with juveniles. To maintain their complete separation from adults, proceedings involving juveniles must be conducted either in a building or room separate from that in which adult proceedings are held, or on different days or at different times from those scheduled for adults.

3. Procedural reform

127. Rule 20 stipulates that juvenile cases shall be handled without unnecessary delay. Accordingly, the Juvenile Justice Act states that neglected juveniles, as determined either by the police or by other persons or

organizations, have to be brought before a board within 24 hours. Delinquent juveniles are to be released on bail, and may be sent to an observation home as an alternative to pre-trial detention. When a juvenile is arrested, the parents or guardians and the probation officer must be informed of the action.

128. As a rule, the parents or guardians must be present at subsequent inquiries. If, however, the competent authority considers it to be in the interest of the juvenile, any other participant may be excluded at any stage of the inquiry.

129. Rule 17 requires that any action taken shall be in proportion to the circumstances and gravity of the offence and that special consideration be given to the well-being and interests of the juvenile. The Juvenile Justice Act accordingly stipulates that the age of the juvenile, his or her health and the circumstances in which he or she was living, together with a comprehensive report by the probation officer, have to be taken fully into account before any disposition is made.

4. Disposition measures

130. Under the Model Rules, there is no death penalty for juveniles. Neither can juvenile incarceration be used. Instead, a range of discretionary disposition measures is provided for: a juvenile court may allow the juvenile to go home after advice or admonition; it may direct the juvenile to be released on probation of good conduct and placed under the care of parents, guardians or other fit persons; or it may impose a fine or community service order.

131. Incarceration is used as a very last resort, and limited to exceptional cases. Only when the juvenile court is convinced that no other measure is suitable may it order the juvenile to be kept in custody in a facility. Such a decision must, however, be submitted to the state government, which is empowered to modify the order for the rest of the period of sentence. In such cases, the Juvenile Justice Act makes it clear that neither police lock-ups nor jails are considered suitable to receive juveniles considered as neglected or delinquent. For this purpose, different types of facilities have been established. The observation home provides an alternative to pre-trial detention, when it is not possible for the juvenile to remain with the parents or guardians. The juvenile home is a more permanent solution for juveniles whose well-being and interests cannot be ensured if they remain in their ordinary environment and for whom no other suitable custodial arrangement can be made.

5. Prevention

132. To protect juveniles from victimization, an entire chapter of the Juvenile Justice Act is dedicated to the definition of special offences against juveniles, such as cruelty, their employment as beggars, the provision to them of intoxicating liquor, narcotic drugs or other substances, and the exploitation of their labour.

6. Community involvement

133. The involvement of non-governmental organizations is a striking feature of the Juvenile Justice Act and the Model Rules. Both take great care to involve the community in many ways and at all levels. Organizations and individuals are called upon to assist juveniles in need of care and protection. Honorary social workers play an important part in procedures before the boards

for neglected juveniles and before the juvenile courts. Community access to institutions is ensured, that is, the young detainees may have visitors, and inspectors check on the conditions under which they are detained. Such access is intended to offset a young detainee's isolation from society. Also, voluntary organizations are actively involved in follow-up and after-care activities. To help state governments overcome the financial burden of implementing the Act, the Act empowers them to create special funds for juvenile welfare.

C. Italy

134. In February 1987, the Italian Parliament issued a legislative authorization to the Government to draft a new Code of Penal Procedure. Article 3 of this law lays down the fundamental principles of the new provisions governing proceedings involving defendants who were under 18 years of age at the time the offence was committed. A special board of experts was appointed in 1987 to translate the principles into procedural norms. The new provisions of the juvenile penal procedure came into effect on 24 October 1989. These provisions, which are well in line with the Rules, were established in accordance with the general principles of the new penal procedure and with the changes and additions made necessary by the special psychological conditions of juveniles, their degree of maturity and their educational requirements. In addition, two draft laws referring to juveniles have been submitted to Parliament, one on the reform of the juvenile justice system, and the other containing norms governing legal sanctions imposed on juveniles.

1. Law reform

135. The power of arrest can be optionally exercised when the individual is caught in flagrante delicto. Preventive detention is limited to serious offences and other precautionary measures against the individual are optional. Pre-trial detention is ordered only for the most serious offences or for cases where there are important and compelling reasons for so doing, involving the inquiry itself or the protection of the community. The maximum duration of restriction of liberty for juveniles has been reduced and, for those below the age of 16, a further reduction has been introduced. Juvenile court judges are requested to evaluate the personality and the psychological and social situation and background of the minor, with the option of suspending the trial until the evaluation has been made. The judge may order the provision of support services for the juvenile. In addition, the application of alternative measures in lieu of detention has been extended and greater attention is being paid to the adverse effects of contacts between the minor and the justice system. Greater emphasis has also been placed on the protection of minors charged with an offence, and the secrecy of the records of proceedings involving juveniles has been guaranteed. A provision has also been included to expedite juvenile justice proceedings.

136. A law passed in 1986 introduced greater latitude for the probationary referral of juvenile offenders to social services and for their referral to a régime of semi-liberty. The law also instituted the practice of home detention for juveniles below the age of 21 "for demonstrated or compelling reasons of health, study, work and family considerations".

137. In the interest of reducing detention pending trial, some regions are experimenting with non-custodial reception centres to which juveniles may be brought following their arrest. In addition, there are also semi-free houses, operated in concert with the local community services, located on normal

residential premises and thus totally removed from an institutional environment. Recently, day centres have been established, which offer vocational training courses, school counselling services and supervised activities. A judge may refer a juvenile offender to such a centre under an order requiring his or her attendance.

138. Interventions have been intensified vis-à-vis those juveniles who, although bound by the orders of a juvenile court judge, are not deprived of their liberty.

2. Organizational reform

139. At the organizational level, the Office of Juvenile Justice was established under the Ministry of Justice. It is responsible for the educational services for juvenile delinquents; the recruitment and the basic and advanced training of specialized personnel; liaison with the local community to promote community involvement in endeavours to reduce juvenile delinquency; the formulation, implementation and monitoring of programmes designed to deal with juvenile delinquency; and research.

140. The Office of Juvenile Justice has undertaken an intensive programme of technical, operational and promotional activities, with a view to promoting the Rules within its jurisdictional area. They have been included in the training programmes for Ministry of Justice personnel, social workers, educators, institution directors, psychologists and other professionals whose work brings them into contact with juveniles. Magistrates attached to juvenile courts have participated in refresher training courses organized at the request of the Supreme Council of the Judiciary, the aim of which is to keep court officials abreast of the latest developments in this field. Special experimental programmes were initiated in 1987, in co-operation with the police, for the basic and advanced training of law enforcement officials.

III. CONCLUSION

141. Less than five years have passed since the Seventh United Nations Congress and the General Assembly indicated the scope and direction of the work to be undertaken in the administration of juvenile justice. The Rules are gaining world-wide recognition as a useful tool by which to promote and protect the rights of young persons within the context of juvenile justice systems, while at the same time making a positive contribution to the prevention of juvenile delinquency.

142. It is clear from the information contained in this report that the Rules have already inspired and brought about encouraging and significant changes and reforms in Member States that seek to incorporate them in their philosophy, approaches and objectives, as well as to apply them in their systems, institutions, substantive and procedural law, and practices relating to juvenile justice.

143. In a very short period of time, the Rules have been instrumental in introducing significant changes in juvenile justice systems in many countries around the world. They have served as a catalyst for reform, as is illustrated by the fact that many Governments have brought their legislation into line with the concepts reflected in the Rules. In this respect, the information provided by Governments is for the first time affording a considerable insight into national juvenile justice operations and trends in different parts of the world.

144. The present momentum for reform in the field of juvenile justice and delinquency prevention makes this an opportune time to encourage Governments that have not yet done so to review their legislative procedures and establish separate juvenile justice systems. They should also be encouraged to provide the United Nations with information and data on the progress achieved in effecting desirable changes in their policy and practice.

145. Some Governments have pointed out that a lack of funds has hindered implementation of the Rules in their legal systems and additional efforts should be made to render assistance. The United Nations can provide technical advisory services and support activities to Governments upon their request, within the regular programme resources of the Department of Technical Co-operation for Development. These services are available to develop projects and programmes on, for example, the application of the Rules, personnel training, and the establishment of separate systems for juveniles, to assist those Governments to overcome obstacles encountered in their efforts to implement the fundamental principles of the Rules.

146. Furthermore, in the light of the information at hand, and in view of the fact that juvenile justice standard-setting has proved capable of making a positive impact, it would also be useful to continue to study and monitor the implementation of the Rules and developments in the administration of juvenile justice. It is important to measure the success of the Rules in terms not merely of the whole package but also of the standards laid down by specific Rules. In particular, in-depth reviews and analytical studies should be undertaken on issue-oriented matters such as the age of criminal responsibility, diversion mechanisms, non-institutional disposition measures, community involvement in the rehabilitation of juvenile offenders, circumstances of juvenile detention and management of juvenile facilities, treatment and aftercare of juvenile offenders, definition of juvenile delinquency and the scope of programmes for the prevention of delinquency, especially early preventive measures and prevention of relapses.

147. Another subject that requires further research is net-widening. Rules 18 and 19 stress the need for graduated treatment short of institutionalization. Yet research shows that the availability of intermediate treatment régimes (see rule 18.1 (e)) tends to bring juveniles who would otherwise have been dealt with in a completely non-custodial manner into a quasi-institutional setting. In this connection, consideration might be given to seeking regular information on the types of intermediate treatment available in Member States and the number of juvenile offenders undergoing such treatment.

148. This report contains information on the extent to which the Rules have, in fact been implemented. It is encouraging to note that some Member States whose systems are in broad conformity with the Rules have further refined their current laws and practice; that States whose juvenile justice systems were simply dependent limbs of their adult justice systems have begun to develop separate juvenile justice systems; and that States whose existing legislation seems to contravene the Rules have started reforms aimed at implementing them.

149. The Rules do not constitute a self-executing instrument. Nevertheless, Member States representative of every cultural, political and geographical background have actively responded to the Rules. Evidently they are perceived as helpful rather than confrontational, as representing the distilled wisdom and experience of the international community rather than the élitism of a minority of Member States. A relevant aspect of this acceptability is that,

at a time when there is widespread concern at crime problems and when people in all parts of the world seem to be becoming more punitive in their attitudes towards crime, an international instrument, the philosophy of which is one of graduated and moderate responses, is providing the backdrop for national policy developments.

Notes

1/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

2/ United Nations publication, Sales No. E.88.XIV.1.

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CRIME PREVENTION AND CRIMINAL JUSTICE IN THE CONTEXT OF DEVELOPMENT: REALITIES AND PERSPECTIVES OF INTERNATIONAL CO-OPERATION

Working paper prepared by the Secretariat

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INTRODUCTION

1. It was stated in the Milan Plan of Action, 1/ adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, that crime is a major problem of national and international dimensions, hampering the political, economic, social and cultural development of peoples. It threatens human rights, fundamental freedoms and peace, stability and security. The escalation of transnational forms of crime demands a concerted, comprehensive response from the international community. In the public eye, also, the United Nations activities in the field of crime prevention and criminal justice are now perceived as of great importance.

2. The General Assembly, in its resolution 44/72 of 8 December 1989, expressed concern over the increase both in the incidence and seriousness of crime in many parts of the world, and reaffirmed the validity of the Milan Plan of Action. The Assembly urged the international community to apply the Plan's recommendations, together with the resolutions adopted by the Seventh Congress, and hoped that the Eighth Congress would make a major contribution to the solution of crime prevention and criminal justice problems.

3. The Economic and Social Council decided, in resolution 1987/49 of 28 May 1987, to include the topic "Crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation" in the provisional agenda of the Eighth Congress, as the umbrella topic for the substantive deliberations. The Committee on Crime Prevention and Control, at its ninth session, recommended that its treatment should be broad enough to cover issues of general interest to Member States, yet specific enough to serve as a guide to practical action. It should also provide an opportunity for an exchange of views on technical co-operation and the interrelationship of science, technology and crime prevention. The plenary discussions will enable Member States to exchange their experiences on various aspects, particularly crimes seriously affecting development. Emphasis will be placed on approaches found particularly effective in reducing crime; laws and regulations adopted to combat transnational criminality, with due respect for human rights; and other ways of promoting internal security and social peace. Priority will be given to collaborative arrangements, especially at the international level.

4. In the report of the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on topic I "Crime prevention and criminal justice in the context of development: realities and perspectives of international co-operation" (A/CONF.144/IPM.1), which was held in Vienna, from 15 to 19 February 1989, a substantive contribution was made to the debate on this agenda item. It was reaffirmed that crime prevention and criminal justice in the context of development should be oriented towards the observance of the principles contained in the Caracas Declaration, 2/ adopted by the Sixth Congress, as well as in the Guiding Principles on Crime Prevention and Criminal Justice in the Context of Development and related instruments. 3/ The meeting proposed a number of recommendations, which were further discussed by the regional preparatory meetings held in 1989 and reviewed by the Committee on Crime Prevention and Control at its tenth and eleventh sessions.

5. Drawing on those recommendations, the Eighth Congress, with its theme of "International co-operation in crime prevention and criminal justice for the twenty-first century", can contribute significantly to intensified international action more responsive to the growth of crime, in which the United Nations would play a leading role.

I. CURRENT SITUATION

A. Crime trends

6. In recent years, the total amount of reported crime has been growing on a world-wide average of 5 per cent each year - well beyond a rise attributable to population growth. 4/ According to the interim report of the Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies (A/CONF.144/6), there was a general increase in both overall recorded crime and in most categories of reported crime. During the period 1975-1980, there was an increase of 11 per cent, while between 1980 and 1985, the rise was 23 per cent.

7. At all the regional preparatory meetings for the Eighth Congress (A/CONF.144/RPM.1-5), Member States voiced their concern at the seriousness and extent of certain forms of criminality and their impact on the quality of life. Economic crimes, whether committed by criminal organizations or by transnational corporations, large-scale fraud and environmental offences pose a real threat to development. Smuggling, illicit flight of capital and misuse of public funds are especially troublesome. The widespread effects of illicit drug trafficking and pervasive corruption of public officials not only undermine national economies but also impair the social fabric and erode the quality of life. Organized crime and terrorism, with their interlinkages, violate the sovereignty of States, undermine their economic and political stability, and have adverse consequences on socio-economic progress and the physical and mental well-being of large segments of the population.

8. Transnational economic crimes expanded in the last decade. It was underlined in the Guiding Principles that they are particularly harmful to the development process. Transborder economic criminality is spurred by the increased interdependence of nations in their commercial and financial relations, industrial production patterns, as well as by the vast expansion of communications, information exchange, transport and travel.

9. Abuse of power is another factor hampering development. Intimidation and insecurity discourage human and capital investments. The criminal actions of police officials or security forces against the physical integrity or personal freedom of innocent citizens have generated a strong reaction in the international press and investment community. Their most extreme expressions - torture and the involuntary disappearances of tens of thousands of persons - when eventually made public have been followed by demands for more effective national and international protection and punishment of the offenders.

10. Where living conditions deteriorate, often exacerbated by a crushing foreign debt and cutbacks in essential services, exploitation of the poor and illicit traffic in persons increase. Examples include the use of women and children for prostitution and of aliens as a source of cheap labour. The sale of children and of human organs is a matter of public outcry.

11. A striking development is the re-emergence of certain internationally proscribed offences which have reappeared with considerable frequency in some regions: new norms of slave trading and sea piracy and its variants such as the scuttling of vessels and diversion of their cargoes. 5/ Smuggling, hoarding and black-market operations undermine fragile developing economies already debilitated by the flight of capital.

B. Crimes of a particularly problematic nature

12. The Eighth Congress may wish to recommend appropriate action at the national and international levels to the forms of crime outlined below in accordance with Economic and Social Council resolution 1989/62 of 25 May 1989. Although they are not exhaustive, special emphasis had been placed on them by the preparatory meetings.

1. Environmental offences

13. A major challenge during the next decades will be to ensure environmentally sound economic and social development. 6/ Public concern about acts harmful to the environment has increased, generating new initiatives in many countries, with a view to formulating a firm policy response to prevent its further degradation. But the problems have become so serious that offences against the environment could be deemed crimes against humanity.

14. Damage to the environment by air, water and land pollution ceases to be exclusively a matter of national concern when its destructive impact is felt beyond the borders of the country in which such activities are initiated. The harm done to the environment, life and property by the widespread use of chemical herbicides and detergents, release of large amounts of gases into the atmosphere and careless, indiscriminate disposal of poisonous and radioactive wastes does not stop at national frontiers. While industry enhances the quality of raw materials and extends their use, it also pollutes and depletes natural resources. Rapid industrial growth has had a tremendous impact on the environment through the entire cycle of exploration for and extraction of raw materials, manufacturing, energy consumption, waste generation, consumer use and disposal of industrial products.

15. Environmental offences require the re-examination and adjustment of narrow concepts of national sovereignty and criminal responsibility. The World Commission on Environment and Development concluded that traditional forms of national sovereignty are increasingly challenged by the realities of ecological and economic interdependence, especially in shared ecosystems, such as the oceans and atmosphere, which fall outside national jurisdictions.

16. Some of the phenomena threatening the ecological balance and hence development are a consequence of human failure or negligence. Others are the results of practices instituted in full knowledge of their deleterious effects to maximize profits or attain, as fast as possible, a higher level of economic development with the least immediate cost. The effects may be the result of acts of commission and omission, and it is the task of criminal law and its enforcement apparatus to reduce the lag between changed realities and obsolete legislation. By criminalizing particularly harmful acts and enforcing agreed upon provisions, criminal law can serve as a useful adjunct to, and instrument of, environmental control.

17. At the national level, environmental legislation provides a framework for the implementation of environmental standards and regulation of activities of people and enterprises. At the international level, conventions, protocols and agreements lay a basis for co-operation between countries at the bilateral, regional and global levels for the management of environmental risks, control of pollution and conservation of natural resources. The Environmental Perspective to the Year 2000 and Beyond, adopted by the General Assembly in its resolution 42/186, annex, of 11 December 1987, is a landmark. It is a framework designed to guide national action and international co-operation towards programmes which would achieve environmentally sound development. The

Assembly, in resolution 43/212 of 20 December 1988, stressed the obligation of all States to protect the environment and urged them to take measures to halt and prevent illegal international traffic in, and the dumping and accumulation of, toxic and dangerous products and wastes. Furthermore, the Assembly, in resolution 44/228 of 22 December 1989, decided to convene, in 1992, a Conference on Environment and Development. An expert group meeting convened in co-operation with the United Nations at Hamburg in 1989 recommended that a report should be prepared for the 1992 Conference on the most appropriate remedies and sanctions which may be employed, including the role of criminal justice in the implementation of regulations limiting damage to the environment.

18. The Eighth Congress may wish to consider, together with the draft resolution on the role of criminal law in the protection of nature and the environment recommended by the Committee on Crime Prevention and Control at its eleventh session to the Economic and Social Council (E/1990/31 and Add.1, decision 11/114), the following elements of a possible strategy for penal environmental protection:

(a) The criminal justice system, by focusing on acts causing or likely to cause the most harm, should discourage powerful perpetrators, including national enterprises and transnational corporations, from damaging the environment;

(b) New laws should afford greater protection to those segments of the population which can be the prime victims of environmental hazards and catastrophes because of their basic lack of options and frequent proximity to potentially dangerous sites;

(c) Reparation for damage inflicted on individuals or groups of persons by environmental offences should be ensured. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, contained in General Assembly resolution 40/34, annex, of 29 November 1985, stipulates that "in cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community";

(d) Close co-operation between the law enforcement and environmental agencies of different countries is indispensable to the successful investigation and prosecution of transnational offences. Harmonization of laws should be encouraged to ensure similar treatment of perpetrators in all countries and avoid the transfer of illegal operations to areas with laxer controls.

2. Corruption

19. Corruption is a problem plaguing all societies, 7/ but its consequences are much more deleterious in developing countries. When a government official in a developing country recommends, under the influence of a bribe, that a more expensive, but less adequate, product should be purchased, then the extra cost is incurred at the expense of development.

20. In addition to the cultural attitudes to certain practices not perceived as contrary to legal or moral standards, widespread poverty can make corruption attractive to both parties. In many cases, corruption is linked to survival, and the severe problems faced by many countries permit corrupt practices to flourish. Although it is sometimes claimed that corruption encourages develop-

ment by promoting the influx of capital, experience has shown the opposite: funds go to foreign banks in hard currencies and are used for personal enrichment. Furthermore, corruption hampers economic growth by fostering non-productive activity and inefficiency. Inflated transaction costs, through bribery or related abuses, are passed on to consumers, increasing the cost of living and particularly victimizing low-income strata of the population.

21. The material and social costs of corruption are impossible to estimate. In addition to the financial force it exacts, it creates and sustains a vicious circle of inequality that is not only perpetuated and magnified by corruption, but also breeds new corrupt practices. Thus, it leads to distrust of public institutions and disruption of political life.

22. As borders are becoming more porous, corruption is becoming more transnational. The elimination of currency restrictions in many regions, reflecting their increasing integration, facilitates the transfer of the illicit proceeds of corrupt activities, making them more difficult to trace.

23. International assistance is not immune from the effects of corruption. Funds may be diverted while development programmes are delayed or discontinued. Donor countries may use the prevalence of corruption as a justification for disqualifying a country requesting development aid. Properly administered, aid with systematic follow-up has proved effective in alleviating the problem. Assistance to countries that have demonstrated their willingness to combat corruption is therefore essential.

24. Measures against corruption should be planned taking into consideration its nature, extent and ramifications. They should be put into effect with the full understanding that corruption is conspiratorial and that obtaining evidence can therefore be difficult. A firm commitment and political will are prerequisites for effective action. Resources should be directed to the eradication of corrupt activities and the achievement of honest administration with transparent procedures applied on a merit basis.

25. National measures must be comprehensive and should include administrative as well as legislative aspects, a system of checks and balances, auditing, competitive public bidding, a free press and ombudsmen. Harmonization of national legislations would reduce or eliminate loopholes due to differences in legal systems. International co-operation could also include provisions for the confiscation of the proceeds of corrupt practices, coupled with measures to prevent their laundering. The exchange of information and expertise can facilitate anti-corruption strategies.

26. The Eighth Congress has before it a draft manual on practical measures against corruption (A/CONF.144/8), prepared in response to resolution 1990/23 of the Economic and Social Council. Also available is the report of the Interregional Seminar on Corruption in Government, held at The Hague, the Netherlands, from 11 to 15 December 1989.

3. Crimes against the cultural heritage

27. The denomination of crimes against the cultural heritage (or patrimony) usually includes actions leading to "the procurement and/or acquisition of archaeological and artistic objects that have been classified by the national authorities as part of the cultural heritage of a nation, for the purpose of exporting them to other countries, in violation of existing prohibitions". 8/ In recent years, there have been unprecedented levels of pillage, theft and

destruction of cultural property in European museums, churches, private collections and archaeological sites. 9/ Systematic theft, organized in certain regions with the most modern equipment, and simple plundering by occasional thieves are threats to the cultural property of nations. 10/

28. States are increasingly endeavouring to protect their heritage; to seek its recovery, or to obtain appropriate indemnification; and to actively combat such practices. Renewed concern with the matter in the 1960s led to the adoption, in 1970, under the aegis of the United Nations Educational, Scientific and Cultural Organization (UNESCO), of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which came into force two years later. It defined cultural property qualifying for protection not only on historical, archaeological or artistic grounds, but also in the interests of science. Further protection at the regional level was provided, in 1976, with the adoption by the Organization of American States of the Convention on the Defence of the Archeological, Historical and Artistic Patrimony of the American Nations (San Salvador Convention) and the 1985 European Convention on Offences relating to Cultural Property (Delphi Convention).

29. In spite of these positive developments, the need for further international action persists owing, inter alia, to the laxity of laws on the acquisition and ownership of cultural property, as well as to the low number of ratifications of the international conventions.

30. In response to the recommendation of the Committee on Crime Prevention and Control, at its tenth session, to include crimes against the cultural heritage under this topic, a new model treaty for the prevention of those crimes is before the Congress (E/1990/31 and Add.1, decision 11/119). It is the result of co-operation between the United Nations, the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), the United Nations Interregional Crime and Justice Research Institute (UNICRI), UNESCO, the Australian Institute of Criminology, the Australian National Cultural Heritage Commission and experts from different regions. The Committee, at its eleventh session, welcomed the draft as a useful complement to the 1970 UNESCO Convention. On the Committee's recommendation, the draft was revised further by an expert group meeting held at Chicago, Illinois, from 4 to 7 June 1990.

C. Costs of crime

31. The economic and social costs of criminality are immense. The burden of crime is felt by all societies, but its costs are particularly high in developing countries. There are indications that crime and crime control consume a significantly greater proportion of the scarce resources of poor nations than of richer ones.

32. Rising crime forces Governments to divert an increased share of their budgets to crime prevention and criminal justice, including additional police, judicial and prison personnel. Economic crimes, such as tax evasion, smuggling, financial frauds and the use of public funds for private gain also divert badly needed resources. Illegal currency manipulations, capital transfers and over-invoicing deprive States of large amounts of foreign currency, which is required for development, while commercial practices, such as dumping low-quality products, seriously jeopardize domestic industries in developing countries.

33. While the financial costs of crime and its control are substantial, the social costs are higher still. The failure to meet public expectations and human rights standards of equitable and effective justice, together with the corroding effects of crime, affect the moral climate and foster a feeling of impotence. The participatory role of people in government is further reduced, social cohesion weakened, polarization accentuated and national unity impaired. In some cases, the problem lies in pre-existing social and ethnic conflicts which, if they become self-perpetuating, may undermine the course of development and nullify some of its benefits. Even though economic estimates of the cost of crime have been made, they cannot disregard the fact that human life, health, freedom and dignity have a priceless intrinsic worth.

34. Official statistics represent only the tip of the iceberg of crime, making it impossible to gauge its full impact. Offences such as rape tend to be vastly underreported. White-collar crimes may also be largely overlooked, especially when the harm is cumulative and camouflaged. The impact of victimization on vulnerable population groups is even more difficult to assess. While accurate statistics are usually lacking because of the frequently covert nature of certain forms of crime, it is known that thousands of people have perished in recent years, due to genocide and persecution on racial, ethnic, religious, political and other grounds. Estimates have put the number of victims of such practices in the millions. Attacks on refugee camps and boats, as well as on expatriate nationals, the use of women or children as cannon fodder or "shields" in external and internal conflicts, the use of innocent persons as pawns in indiscriminate terrorism, the prevalence of torture and other consistent violations of human rights attest to the extent of individual and collective victimization and abuses of power in different parts of the world.

35. Violent crime can be much more damaging to frail old persons and economically ruinous even if the amount stolen is not large, since the victims are often poor. "Con-games" and other kinds of fraud can literally wipe out life-savings, and quick remedies offer worthless cures or jeopardize health. The elderly easily fall prey to those who capitalize on their susceptibility and fear of crime, which affects their life-style by preventing them from socializing and thus increases their isolation. Institutional abuse of the elderly in hospitals or nursing homes and parent-battering in the home, vastly underreported and often involving recurrent abuse, victimize captive elderly who are largely helpless and often dependent on their victimizers. Criminal neglect may lead to further deterioration and outright violence.

36. The majority of perpetrators of violent crime are young people who tend themselves to fall prey to violence. They are often the victims of unjust social and economic conditions which deprive them of legitimate avenues to attain their life objectives by suitable education, employment and leisure opportunities. For many other youth and children, abuses start in the home, with wide-ranging effects. Domestic violence has become a matter of increasing international concern and calls for appropriate action (see A/CONF.144/17).

II. CRIME PREVENTION IN THE CONTEXT OF DEVELOPMENT

37. Research on the conditions conducive to criminality reveals a multitude of factors affecting the level, dynamics and structure of crime. Economic growth creates increased opportunities for the legitimate satisfaction of actual or perceived needs. People living under deteriorating conditions, in which employment is scarce or non-existent, may find it impossible or difficult

to sustain themselves and their families. Increased poverty and economic deprivation may push a growing number of people ordinarily respectful of law and order to criminal behaviour. 11/ Relative deprivation, or poverty in the midst of plenty, is particularly criminogenic. Higher standards of living, better health, education and social services, however, do not of themselves prevent crime. Some of the most affluent societies are the most seriously affected: many factors are involved, such as raised aspirations, increased opportunities for crime and growing tolerance of it.

38. It was stated in the Declaration on International Economic Co-operation, in particular the Revitalization of Economic Growth and Development of the Developing Countries, adopted by the General Assembly, at its eighteenth special session by resolution S-18/3 of 1 May 1990, that for many countries, the 1980s has been a decade lost for development. Living conditions in Africa, in parts of Asia, and in Latin America and the Caribbean have deteriorated and the economic and social infrastructure has eroded, impairing stability and the prospects for growth and development. External indebtedness accompanied by internal economic mismanagement has emerged as the main factor in the economic stalemate, contributing to the decrease in the human and financial resources allocated to development projects. The regional preparatory meetings acknowledged the negative impact of the economic crisis on both development and crime. The debt problem, coupled with weak currencies and the low level of remuneration of public officials, has created circumstances conducive to corruption and social disintegration. Viable development initiatives have had to be abandoned and social welfare programmes cancelled, resulting in public frustration and the proliferation of crime (A/CONF.144/RPM.1-5).

39. More than 20 years ago, the General Assembly by its resolution 2542 (XXIV) of 11 December 1969 adopted the Declaration on Social Progress and Development outlining the key goals of social and economic development, including the elimination of conditions leading to crime. Since the Second Congress, held in London in 1960, the relationship between crime and development has been a focus of United Nations policy-making bodies. These have emphasized that development is a multi-dimensional process, with political, economic, social, cultural and, above all, human elements. They have urged that people should be placed at the centre of development, as both contributors and beneficiaries.

40. The formulation of crime prevention policies as part of economic and social development requires a broad approach, as called for in the Milan Plan of Action and the Guiding Principles. Such an approach necessitates the appropriate physical mapping of crime prevention by improved town planning, the development of defensible living spaces and the provision of improved social infrastructures. Planners and crime prevention specialists should be alerted to the changing socio-economic environment, and should be able to anticipate factors likely to generate crime. As crime prevention implies interdisciplinary co-ordinated planning, team-work with experts and policy makers from other relevant fields is a prerequisite; so is greater public awareness of the necessity of rejecting crime and illegality as a threat to the quality of life. There is also need for concerted efforts to reduce the opportunities to commit crime and formulate effective rehabilitation programmes to curtail recidivism (A/CONF.144/IPM.1, paras. 22-28).

41. For many countries, the seriousness of the crime problem and the related demands for improved functioning of law enforcement and judicial structures have become priority issues. Effective crime prevention strategies, however, require investment in research, and policy development and evaluation in order to foster innovative and viable approaches. It appears from government replies to the Third Survey (A/CONF.144/6) that a wide range of methods to prevent

crime is being used, including community assistance for crime prevention activities and the modification of environmental conditions that facilitate criminal behaviour.

42. In some countries, a number of measures have been adopted to incorporate crime prevention components in development programmes by anticipating and reducing the possible criminogenic effects of new policies, and determining in advance the requirements of criminal justice agencies. In others, attention has been focused on "situational" crime prevention through environmental and urban planning designed to reduce the opportunities for crime; public education, especially on the dangers of drug and alcohol abuse; regulatory mechanisms and procedures to increase the security of banking and credit-card systems, and decrease the likelihood of their misuse;* specialized training for law enforcement personnel in the detection and handling of complex, sophisticated forms of criminality; as well as research on more effective sanctions. 12/

43. In some countries, new ways of dealing with crime have improved the performance of the criminal justice system. The decriminalization of certain types of behaviour has released resources for controlling more dangerous types of criminal activity. Other countries, in reducing crime, have been successful by emphasizing situational or victim-oriented crime prevention measures, with improved security and surveillance, and offender-oriented strategies, including new types of programmes to reintegrate ex-offenders into society. Offender-oriented crime prevention programmes could partly replace some conventional criminal justice interventions, as imprisonment has been used instead of capital punishment, and fines and other alternative sanctions are currently being utilized instead of prisons. The outcome of these transformations should periodically be assessed in order to ensure that the responses to crime exact a lesser social cost from all the parties involved, including victims, offenders and society at large. 13/

44. Successful preventive strategies require fair and effective criminal justice systems with the ability to respond to the realities of crime. In many countries, there is a criminal justice management crisis largely because of inadequate training of personnel in policy formulation and implementation. There is also a lack of a coherent overall policy and of co-ordination between criminal justice agencies, i.e. the police, courts and corrections. Improved performance requires changes ranging from the reform of criminal law and procedures to a better functioning of the various sub-systems in the light of scientific knowledge and technological innovations. Attention must also be given to situations where the crisis is caused not only by managerial shortcomings but also by structural deficiencies and a lack of resources.

45. The Eighth Congress provides an opportunity for countries, developed and developing alike, to benefit from each other's experience in dealing with crime and criminal justice in the ontext of development. The attention of the Congress, in this connection, is drawn to the draft inventory of comprehensive crime prevention measures contained in document A/CONF.144/9, the recommendations made by the preparatory meetings for the Eighth Congress, as well as decision 11/102 on the prevention of urban crime of the Committee on Crime Prevention and Control at its eleventh session, and other relevant recommendations contained in the Committee's report (E/1990/31 and Add.1).

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*See "Inventory of comprehensive crime prevention measures", note by the Secretariat (A/CONF.144/9).

III. INTERNATIONAL CO-OPERATION

A. Background

46. As crime, particularly in its new forms and dimensions, has a crippling impact on individual States and on the relations between them, intensified international co-operation in crime prevention and criminal justice is urgently needed.

47. The Eighth Congress takes place at a time of profound social, economic and political changes. In the last decade of the twentieth century, the world situation is very different from that of a few decades ago, with some unexpected positive developments. But it is also a time of severe economic deterioration in many countries and of rising concern about social conditions in poor and even prosperous countries. 6/ The General Assembly, in its resolution 44/72 of 8 December 1989, noted that economic and technical constraints impeded the efforts of many countries in their fight against crime, and it requested the Eighth Congress to pay particular attention to strengthening international co-operation in this respect.

48. While the international response has sought to take into account the current realities of crime, it has been conditioned by competing demands and a dearth of means. The situation is rendered more serious by the likelihood of further exacerbation of the situation and proliferation of the damaging new transnational forms of crime. The mounting problems of crime, combined with instability and fragile social and economic institutions, are bound to exact a heavy price, unless concerted action is taken. While a number of legally binding international instruments have been agreed upon at the regional and international levels, there are other crucial areas which deserve attention. In addition, many instruments nave received a limited number of accessions or ratifications and others have not been fully implemented, due to lack of institutional capacity and adequate resources.

49. The traditional scope of inter-State co-operation in mutual assistance, extradition and recognition of penal judgements tends to be limited to those countries having bilateral arrangements. But these cannot provide a comprehensive solution in a world of over 160 States, faced with an upsurge in transnational crime. Crime syndicates, by moving their logistic financial operations from one country to another and displacing their new criminal activities, can circumvent those treaties.

B. Scope for international co-operation in priority areas

50. The extent and complexity of modern criminality and the limited means available have made it essential that priority areas be defined, particularly with regard to the international response to transnational criminality, information dissemination and exchange, the promotion and implementation of basic standards and norms (see A/CONF.144/18), and technical co-operation activities.

1. International response to transnational criminality

51. The international community has been seeking more effective means of dealing with terrorism, organized crime, economic and environmental offences, the infringement of fundamental human rights and other serious forms of victimization. 14/ Even countries with advanced legal systems, democratically elected legislatures, a free press and an independent judiciary have found it difficult to develop normative systems and institutional structures to deal with the special features of modern transnational crime. Specialized expertise

is needed to counter the new forms of criminality as is sophisticated equipment, especially for the detection and investigation of offences in international trade and commerce. By pooling their capabilities and exchanging information, Governments can begin to grapple with the new forms of crime. International agreements, such as the proposed model treaties, can greatly advance this process. However, to have an appreciable effect, the model treaties on mutual assistance, transfer of criminal proceedings and extradition must be translated into national law and accompanied by practical collaboration between law enforcement agencies (A/CONF.144/15).

2. Information dissemination and exchange

52. Systematic information dissemination and exchange as an important means of international co-operation in crime prevention and criminal justice have been stressed in national, regional and international forums. The Seventh Congress, in its resolution 9, called for intensified United Nations activities for the development of crime and criminal justice information and statistical systems, and for the wider dissemination of relevant information. 15/ In response to this request, the Economic and Social Council, in resolution 1986/11 of 21 May 1986, invited the Secretary-General to make all efforts to establish a global crime prevention and criminal justice information network, with the Crime Prevention and Criminal Justice Branch as the focal point in co-operation with the United Nations institutes, and with a mechanism for the centralization of inputs from non-governmental organizations and scientific institutions.

53. In view of the importance of this project, a pilot study was undertaken in co-operation with other entities concerned and a United Nations crime prevention and criminal justice information network (UNCJIN) established with the co-operation of the New York State University at Albany. Network users are able to communicate electronically, exchange documents and data, scan new legislation and a calendar of relevant conferences, search various data bases, obtain up-to-date information on selected issues, and communicate with other networks. Linkages are also being established with other United Nations data bases and the United Nations institutes and affiliated centres. The Network has been joined by a growing number of national institutions, organizations and individual subscribers.* However, the shortage of resources is limiting the response to the many requests for information received from Governments, organizations and individual experts, and the assistance which should be provided to developing countries in upgrading their information technology. The capacity of the network needs to be considerably increased to furnish up-to-date information to policy makers and researchers, as well as the necessary technical and institutional assistance (A/CONF.144/19).

54. There is also need for the dissemination of research findings, comparative legislation and promising solutions to crime problems. In the Guiding Principles, the United Nations was called upon to secure the support and co-operation of the scientific and professional community and of governmental and non-governmental organizations and institutions with an established reputation in the field. The designation of an international professional and scientific council was suggested, to further the transfer of knowledge and research findings, and to provide technical assistance. In its resolution 1986/11, the Economic and Social Council called for the prompt realization of this proposal. The Secretariat has obtained financial support for this initiative from the

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*Report of the Secretary-General on crime prevention and criminal justice (E/1990/36, paras. 34-36).

Government of Italy. The intensive preparations for the Eighth Congress precluded convening the Advisory Council until now, but it is scheduled to meet shortly after the Eighth Congress, in co-operation with the Centro Nazionale di Prevenzione e Difesa Sociale, at Milan, which is the seat of the Co-ordinating Committee of the major international organizations active in crime prevention and criminal justice.

55. The Seventh Congress, the General Assembly, as well as the Economic and Social Council and the Committee on Crime Prevention and Control, have repeatedly called for intensified efforts to inform the public of the United Nations norms and guidelines in crime prevention and criminal justice and other relevant matters. Unfortunately, the decisions taken and instruments adopted by the United Nations congresses often do not reach policy makers, practitioners and criminal justice personnel. Vigorous information campaigns are needed to advance the implementation of the principles embodied in the various United Nations instruments through a rational, informed approach to crime and its prevention.

56. In addition to the International Review of Criminal Policy and the Newsletter, specialized information materials, such as technical manuals, pamphlets, briefs and circulars on specific issues, should be prepared, to foster knowledge and support of United Nations activities in the crime field. Media aids and brochures for the wider public can be developed in co-operation with the Department of Public Information of the United Nations and other organizations.

3. Technical co-operation

57. The Seventh Congress stressed the importance of an expanded United Nations crime prevention and criminal justice technical co-operation programme. The General Assembly and the Economic and Social Council have repeatedly requested the Secretary-General, the United Nations funding agencies and other relevant organs and entities to increase support for crime-related technical assistance activities. Most recently, the Economic and Social Council, in resolution 1990/19 of 24 May 1990, reaffirmed the importance of technical co-operation against organized crime and urged Governments to establish collaborative arrangements for the exchange of expertise and provision of such assistance. Similarly, all the regional meetings underlined the urgent need for more extensive technical co-operation. In particular, the European Regional Preparatory Meeting stressed that essential improvements in crime prevention and criminal justice could not be achieved merely through the adoption of international instruments, since in many parts of the world the lack of financial and human resources made it impossible or difficult to translate the goals and objectives proclaimed in those instruments into day-to-day practice (A/CONF.144/RPM.2, para. 89).

58. The most pressing needs for technical co-operation include: (a) reinforcing the technical capacities of the criminal justice agencies by identifying and supplying specialists and appropriate equipment; (b) upgrading the personnel in all sectors of the criminal justice system through various training activities; (c) assisting in the development of information bases for the collection, analysis and dissemination of data on crime trends and operations of criminal justice agencies; (d) advisory services to help with designing policy options and to provide management advice for the implementation of United Nations guidelines and standards; and (e) elaborating multilateral strategies and collaborative arrangements to deal with crime problems of mutual concern (A/CONF.144/RPM.1).

59. The results of a study conducted by UNICRI on the needs and priorities of developing countries, 16/ listed information, training and research as critical needs, with emphasis on expanding the institutional capacity of developing countries, as well as improving international strategies to combat criminality.

60. The gravity of persistent crime problems, as well as changing conditions, have led many countries to re-examine their existing laws, regulations and approaches to justice, especially since the adoption of alien and ill-suited models has often exacerbated the problems. Governments often request assistance in adapting the United Nations guidelines and standards to local requirements. Advisory services and other United Nations technical assistance activities, such as national and regional training courses and workshops, organized in co-operation with the United Nations institutes, national institutes and non-governmental organizations, can help to develop the special skills necessary for the implementation of international standards. The General Assembly, in resolution 44/72 of 8 December 1989, and the Economic and Social Council, in resolution 1988/44 of 27 May 1988, urged the Secretary-General to pay attention to the operational aspects of the programme to assist countries in developing self-reliance in crime prevention through human resources development, reinforcement of national machinery, promotion, inter alia, of joint training activities and development of pilot and demonstration projects. The main elements of United Nations technical co-operation in this field are outlined below.

(a) Interregional advisory services

61. During the last four years, the Interregional Adviser has completed over 80 missions to Member States and to the regional institutes and regional commissions of the United Nations, as well as some prospective donor countries. The impact of advisory missions has been substantiated by many Governments, by their adoption of recommended legislative and policy measures or by their undertaking specific technical co-operation activities, such as training courses, seminars, fellowships and study tours. The services foster the application of existing international instruments, norms and guidelines in crime prevention and criminal justice. They open new prospects for enhancing the rule of law and promoting human rights in the administration of justice. Expanded funds for technical assistance projects would enlarge the scope of the programme and permit systematic follow-up of the recommendations made for action at the country-level.

(b) Other operational activities

62. The results of the review of the functioning and programme of work, undertaken by the Committee on Crime Prevention and Control and the Economic and Social Council during 1986-1990, underlined the need for intensifying the operational aspects of the programme. In its resolution 1987/53 of 28 May 1987, the Council requested the Secretary-General to strengthen technical co-operation projects on specific crime issues, develop practical measures to assist Member States requesting technical assistance and devise strategies for practical follow-up of the decisions taken by the policy-making bodies.

63. There is a need to include crime prevention in the country programmes of the United Nations Development Programme (UNDP), to expand collaboration with the United Nations institutes and with funding agencies, and to strengthen contacts with prospective donor countries so as to secure greater financial and technical support. A number of collaborative activities have been undertaken. The Department of Technical Co-operation for Development of the Secretariat provided funds for an international seminar on policies and

strategies to combat organized crime, held at the University of New Mexico, from 8 to 11 December 1987. Its recommendations constituted valuable input for the substantive preparations of the Eighth Congress. Also in co-operation with the Department, an international seminar on juvenile justice was organized at Beijing with support from the Government of China, in October 1988, and an international seminar on Corruption in Government was held at The Hague, from 11 to 15 December 1989, at the invitation of the Government of the Netherlands. The Government of Italy provided support to ILANUD for a training course on prison reform, and to Jamaica for the computerization of criminal justice and improvement of prison conditions. The Government of the United Kingdom of Great Britain and Northern Ireland has provided advisory services on probation and prison reform to Malawi and Zambia, and Argentina made available an expert for a year to help to formulate project documents and provide advice on the treatment of juvenile and drug-addicted offenders.

64. In response to a request from the Government of Ethiopia, the Department has provided a consultant to advise on crime statistics and computerized criminal justice data bases. An expert in this field has also advised the Government of Nigeria in a UNDP supported project, and similar services were provided to Mauritius and Paraguay. Funds were provided by UNDP to assist the United Nations Africa Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI) and ILANUD and for training activities, including national criminal justice workshops, in Liberia and Malawi. Juvenile justice projects were formulated in Brazil, Ethiopia, Swaziland and Thailand for submission to potential donors. In 1989, a memorandum of understanding on co-operation in crime prevention and criminal justice was signed in Moscow by the Director-General of the United Nations Office at Vienna and the Minister of the Interior of the Union of Soviet Socialist Republics. It provides for collaboration between the Ministry of Interior, the Crime Prevention and Criminal Justice Branch, UNICRI and the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations in areas such as crime prevention, organized crime, drug abuse control, and computer technology and police work.

65. As recommended by the Committee on Crime Prevention and Control, collaboration with the United Nations Fund for Drug Abuse Control (UNFDAC) has led to joint operational projects. Thus, a project for strengthening the criminal justice system and drug abuse control in Uganda was initiated by the Crime Prevention and Criminal Justice Branch with the support of UNFDAC and UNDP. It covers the training of police, judges and prosecutors, as well as advisory services and equipment. Assistance is also being rendered by the establishment of specialized drug courts in Bolivia, the establishment of a Senior Police Officers' School in Ghana and the protection of judges and witnesses in Latin America. Regional and subregional projects for joint implementation are being further developed, for instance on mutual assistance, in criminal matters for African countries of the Economic Community of West African States (ECOWAS) and the Economic Community of the Great Lakes Countries (CEPGL). Progress has also been made in strengthening technical co-operation in the area of human rights in the administration of justice and in developing operational co-operation with the Centre for Human Rights of the United Nations.

66. While it is recognized that international co-operation cannot be successful without adequate attention to its operational aspects, the means for it are limited. Unless there is a commitment by Member States to reinforce the multilateral approach to crime prevention and criminal justice, including technical co-operation, little practical progress can be made. To stimulate support of relevant programmes and activities, specific proposals are presented for the consideration of Governments attending the Eighth Congress. Streng-

thened operational activities for crime prevention and control, nationally, regionally and internationally, are essential for more viable domestic policies and a concerted international response to mounting crime. How this can be achieved is the key question facing the Eighth Congress.

(c) Revitalization of the United Nations Trust Fund for Social Defence

67. Since its establishment, in 1965, the United Nations Trust Fund for Social Defence has received earmarked contributions from a few Member States, used mostly to finance the activities of UNICRI. Although since 1982, the Trust Fund has been included in the annual Pledging Conference for Development Activities of the United Nations, in accordance with General Assembly decision 34/440 of 17 December 1979, the level of contributions has remained very low. The continuous support of Governments hosting the United Nations crime prevention and criminal justice institutes, however, deserves the gratitude of the regions they serve, as do the initiatives of some other countries, which have made sizeable contribution in cash for specific projects (e.g. Italy) or in kind (e.g. Italy, Japan, Netherlands and Union of Soviet Socialist Republics).

68. Recognizing that the Fund can be an invaluable resource for increasing the capacity of the United Nations to respond more effectively to the needs of Member States for technical assistance, the General Assembly, in resolutions 41/107 of 4 December 1986 and 43/99 of 8 December 1988, requested the Secretary-General to revitalize the Trust Fund and appealed for contributions. The regional preparatory meetings and the Committee on Crime Prevention and Control, at its eleventh session, recommended that Member States announce contributions to the Trust Fund during a one-day pledging session, to be held during the Eighth Congress (E/1990/31 and Add.1, resolution 11/2). In this connection, a special appeal has been made by the Secretary-General of the Eighth Congress to all Governments and other entities to respond generously to this call.

C. Need for the creation of an effective international crime and justice programme

69. The international crime and justice programme was established over 40 years ago to meet crime problems and needs. Although adjustments have been made over the years to reflect the new priorities and requirements of Member States, its staffing level has remained virtually unchanged. In response to a request by the Seventh Congress, the programme was extensively reviewed by the Committee on Crime Prevention and Control. The results were examined by the Economic and Social Council and the General Assembly. A broader review was conducted by the Special Commission of the Economic and Social Council called the In-Depth Study of the United Nations Intergovernmental Structures and Functions in the Economic and Social Fields. Both reviews underlined the importance of the work and the potential of the programme. But they also noted the sharp discrepancy between proliferating needs and United Nations capacity to meet them (E/1989/20).

70. The initial review undertaken by the Committee brought to light the accomplishments, as well as constraints, that have to be overcome if the United Nations programme is to respond effectively to the concerns and priorities of the international community. The recommendations focused on the necessity of ensuring the practical application of the resolutions and recommendations adopted by the congresses and United Nations policy-making bodies, particularly, the formulation of policies and programmes based on action-oriented

research, strengthened technical co-operation activities, effective co-ordination of the activities of United Nations institutes, and strengthening of the capacity of the Secretariat, in terms of its structure, means and expertise, to permit a level of activity commensurate with the requirements. These recommendations were unanimously endorsed by the Economic and Social Council in its resolutions 1986/11 of 21 May 1986 and 1987/53 of 28 May 1987 and by the General Assembly in its resolutions 41/107 of 4 December 1986 and 42/59 of 30 November 1987.

71. The Committee on Crime Prevention and Control, at its tenth session, decided to establish a Sub-Committee to propose ways of stimulating practical international action in support of Member States, and to enhance the role of the United Nations. In its resolution 44/72 of 8 December 1989, the General Assembly invited the Committee on Crime Prevention and Control to give particular attention at its eleventh session to the conclusions and recommendations of the Sub-Committee (E/AC.57/1990/6), and to consider their appropriate follow-up by the Eighth Congress.

72. At its eleventh session, the Committee considered the report of the Sub-Committee (E/AC.57/1990/6, para. 44) and, after some revisions, approved it as a whole, requesting the Secretary-General to transmit it to the Eighth Congress for appropriate action.

1. Present structure

73. The United Nations programme consists of the quinquennial United Nations congresses on the prevention of crime and the treatment of offenders, the Committee on Crime Prevention and Control, the Crime Prevention and Criminal Justice Branch and the United Nations institutes for the prevention of crime and the treatment of offenders.

74. The importance of the United Nations congresses has been acknowledged by the General Assembly and the Economic and Social Council in a number of resolutions, most recently in Assembly resolution 44/72. As global events and worldwide forums, the congresses have influenced national policies by facilitating the exchange of expertise and experience, recommending lines of action, mobilizing public opinion and focusing attention on major issues of concern to Member States and the scientific community. The congresses have contributed greatly to the development of a body of principles, norms, guidelines and model treaties in a number of important areas. They are the only regular global events where the ministers of justice, other high-level government officials, judges, police and prosecutors, intergovernmental and non-governmental organizations and prominent individual experts can meet and discuss issues of mutual concern. However, measures recommended by past congresses to disseminate its recommendations, assist countries in their application and improve the structure and functioning of the Secretariat could not always be fully implemented for want of means.

75. The interest in the work of the Committee on Crime Prevention and Control is evidenced by the large participation of observers of Governments and intergovernmental and non-governmental organizations, institutes, agencies and experts. The Economic and Social Council, by its resolution 1979/19 of 9 May 1979, enlarged the scope of the Committee's work to include the development of proposals for international co-operation for submission to the competent United Nations bodies and to the congresses and the co-ordination of all crime-related activities. In recognition of its policy-making role, the Council, by resolution 1983/25 of 26 May 1983, decided that the Committee should report directly to it. The reports and recommendations made by the

Committee during its most recent sessions are evidence of the results achieved and broad range of matters considered. But the Committee's increased importance and growing work-load have not been matched by longer or more frequent sessions or by an enhanced capacity of its servicing unit. During the past two decades there has been extensive criticism of the lack of a comprehensive United Nations crime and justice programme, commensurate with the world-wide need (E/AC.57/1990/2).

76. To accelerate progress towards a more effective programme, structural improvements within the Secretariat were also called for. At present, the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs serves as the central repository, in the United Nations system, of professional and technical expertise in matters of crime prevention and criminal justice. The Branch carries out the functions entrusted to the Secretariat or to the Secretary-General by its policy-making bodies. The imbalance between the resources available to the Branch and its work-load and responsibilities has been a matter of continuing concern. Since the Seventh Congress, a number of General Assembly and Economic and Social Council resolutions have been adopted, calling for measures to strengthen the capacity of the Branch. Regrettably, however, the Organization's financial constraints have precluded their implementation. Prospects for increased regular funding are bleak, but an answer to this problem is critical. The attention of the Congress is also drawn to the recommendations made by the interregional preparatory meeting on topic I, as contained in decision 11/104 of the Committee on Crime Prevention and Control, as well as to those contained in the Committee's report on the programme review (E/1990/31 and Add.1, paras. 45-48) and the resolutions adopted by the regional preparatory meetings.

77. The United Nations institutes for the prevention of crime and the treatment of offenders are important components of the United Nations programme. There is need to strengthen them more systematically and on a long-term basis. Their activities are supported by the host Governments and by some extra-budgetary resources but the available means are inadequate when compared with the requests for assistance they receive and the range of crime and justice problems with which they must deal, including the promotion of collaborative action in matters of mutual concern (E/1990/31 and Add.1, paras. 65-71).

78. The global network of the United Nations institutes has been expanded by the creation of the United Nations African Regional Institute for the Prevention of Crime and the Treatment of Offenders, at Kampala, Uganda. The Institute will fill the lacunae existing in the region by encouraging collaborative activities, pooling and exchanging information and research findings, conducting intensive training programmes and rendering direct assistance to States upon their request.

79. UNICRI has reached an important stage in its evolution with the adoption of its new statute by the Economic and Social Council, ratifying the expansion and diversification of the Institute's activities, especially in response to the needs of least developed and developing countries. The Institute is expected to strengthen its technical assistance activities so as to enhance its programme delivery and empirical work.

80. Major efforts have been made by the Crime Prevention and Criminal Justice Branch to strengthen collaboration with and between the United Nations institutes, as well as with intergovernmental and non-governmental organizations. The generous support of the Arab Security Studies and Training Centre and the Government of Saudi Arabia have enabled the United Nations crime and justice entities, as well as interested national institutes, to hold annual

co-ordination meetings at Riyadh with the aim of joint programme planning, research evaluation and project development in areas of common concern. These meetings have also afforded an opportunity for aligning the programme goals of these institutions and fostering integrated implementation of United Nations crime-related policies, with due regard to regional specificities.

81. The United Nations network of government-appointed national correspondents in the field of crime prevention and criminal justice is an important part of the programme. The number of correspondents has almost doubled since 1985. Over the years, the Crime Prevention and Criminal Justice Branch has sought to expand this network to cover all regions. In its resolution 1989/58 of 24 May 1989, the Economic and Social Council recognized the importance of the network. Efforts have been made to involve national correspondents more closely in United Nations crime-related activities through more effective communication and co-operation of the UNDP offices and United Nations information centres. However, there are still countries in which there are no national correspondents. Since Governments have been urged by the General Assembly to include national correspondents in their delegations, a general meeting of national correspondents will be held during the Congress to exchange views on ways of increasing their involvement and contribution to the programme.

2. Towards a more responsive United Nations role

82. The experience of the last 40 years shows that the attainment of the programme objectives depends not only on the co-operation of countries and intergovernmental and non-governmental organizations, but also on the services provided by the United Nations. The Organization should serve all Member States as a source of reliable and timely information, a point of reference for the development of appropriate policies, and a mechanism for co-ordinating the implementation of cost-effective programmes at all levels. The United Nations policy-making bodies and preparatory meetings for the Eighth Congress were unanimous in their view that the United Nations role in the fight against crime and promotion of justice must be strengthened as a matter of urgency.

83. The crime prevention and criminal justice programme 29 of the 1992-1997 Medium-Term Plan stresses the commitment of the United Nations to the reduction of crime and its harmful consequences, while increasing the fairness and effectiveness of the criminal justice system, with due protection of basic human rights, in accordance with the principles contained in the United Nations standards and norms. The Plan emphasizes improved methods of international co-operation against crime, with the development of mechanisms for joint action to deal with problems of mutual concern. This new type of collaboration requires comprehensive approaches, innovative techniques, integrated strategies and an enhanced capacity for co-ordination. Countries with different legal and political systems may find it difficult to join forces unless an appropriate international framework is provided and concrete opportunities offered for multilateral action, including technical co-operation activities. The proposal made by the Committee on Crime Prevention and Control for the formulation of a United Nations convention on crime prevention and criminal justice could provide such a framework. This is in line with the resolutions unanimously adopted by four of the five regional preparatory meetings which recommended that a strengthened United Nations programme in this field might be achieved through a new convention (A/CONF.144/RPM.1, 3, 4 and 5). A legally binding instrument could consolidate the existing crime prevention norms and guidelines, model treaties and agreements, while reinforcing the multilateral approach to combating transnational crime (E/1990/31 and Add.1, chap. V, para. 14).

84. The proposed convention would provide a tool for concerted action against transnational criminality by bringing together in one multilateral instrument the central aspects of international co-operation in criminal matters: the detection of transnational offences, prosecution and adjudication of the alledged offenders, mutual assistance in securing tangible evidence and witnesses, extradition, recognition of foreign penal judgements and transfer of proceedings and prisoners. It could also cover law enforcement and prosecutional co-operation, in sharing data and information, tracking the flow of international financial transactions and seizing of illegally acquired assets. 17/ In its formulation, it would be possible to draw on various bilateral and multilateral agreements which have been widely accepted by the international community and are generally regarded as established customary international law.

85. The proposed convention could state what is required internationally in order to respond to both national and transnational crime, and outline the nature and means of a more effective response. It could also describe the role of the United Nations, based on the desire of the signatory States, that the promotion of international co-operation should have its locus within the framework of the United Nations (E/AC.57/1990/6). Formulation of a new treaty, however, would not solve the resource constraints facing the United Nations in its effort to implement this programme efficiently.

86. These proposals, which are now before the Congress for action, were welcomed by the Economic and Social Council in its resolution 1990/27 of 24 May 1990 which, inter alia, invited the General Assembly, at its forty-fifth session, in considering the report of the Eighth Congress, to take appropriate measures to ensure the timely implementation and proper follow-up of the recommendations contained therein.

IV. CONCLUSIONS

87. The continued growth of crime underscores the urgency of taking incisive action. The transnational scope and widening reach of crime require a commensurate response. Yet, the means and mechanisms have not kept pace with its escalation and pernicious new forms. The common concern about crime, linking countries at all stages of development, must be matched by the political will to translate this concern into reality. An effective strategy against crime must not only confront current crime problems but also emerging ones. The Eighth Congress has a unique opportunity of formulating such a strategy for the 1990s and beyond. As a statement of essential principles and a plan for future action, it would be a charter for the twenty-first century.

88. Such a document would constitute a declaration of intent underlining the commitment of Member States and the international community to concerted action against crime and outline its main directions. It would (a) identify the means of technical co-operation and assistance for more effective crime prevention and humane justice; (b) create the essential mechanisms for practical collaboration against common crime problems; (c) design appropriate procedures to translate United Nations norms and guidelines into concrete terms and monitor their observance; (d) provide the framework for inter-State co-operation to respond to the forms and transnational dimensions of crime; and (e) establish an adequate resource base for an effective United Nations crime and justice programme.

89. A more vigorous programme should be able to render the services which Governments require and expect. The Organization should provide the leadership

with which it has been entrusted. It should also act as a catalyst in promoting practical collaboration at all levels. Adequate international co-operation and support in this critical field would help Governments to contain the problem and to reverse the trend. Agreed upon principles and goals, jointly pursued, in the spirit of shared responsibility and universal solidarity would further multilateral efforts and serve mutual interest. A working group could elaborate the details of the proposals made in preparation for the summit meeting recommended by the Committee on Crime Prevention and Control (resolution 11/3). This would be an appropriate follow-up event and occasion to reaffirm the political will of States to give tangible effect at the highest level to the decisions of the Congress.

Notes

1/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985 (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

2/ Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, 25 August-5 September 1980: report prepared by the Secretariat (United Nations publication, Sales No. E.81.IV.4), chap. I, sect. A.

3/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders ..., chap. I, sect. B.

4/ J. Braithwaite, Inequality, Crime and Public Policy (London, Routledge and Kegan Paul, 1979); M. Lynch, and W. B. Groves, A Primer in Radical Criminolgy (New York, Harrow and Heston, 1989); and R. Sampson, "Structural sources of variation in rates of offending", Criminology, 1985:23:647.

5/ See, for example, G.O.W. Mueller and F. Adler, Outlaws of the Ocean (New York, Hearst Marine Books, 1985).

6/ 1989 Report on the World Social Situation (United Nations publication, Sales No. E.89.IV.1).

7/ David Gould and José A. Amaro-Reyes, The Effects of Corruption on Administrative Performance Illustration from Developing Countries (Washington, D.C., World Bank Staff Working Paper, No. 580, 1983).

8/ Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 1-12 September 1975: report prepared by the Secretariat (United Nations publication, Sales No. E.76.IV.2), paras. 60-64.

9/ Council of Europe, "Explanatory report on the European Convention on Offences Relating to Cultural Property" (Strasbourg, 1985).

10/ Gerte Reichelt, Second Study requested from UNIDROIT by UNESCO on the International Protection of Cultural Property, (Rome, Roneo, 1988).

11/ United Nations Interregional Crime and Justice Research Institute, Essays on Crime and Development, publication No. 36 (1990), Rome; and "New dimensions of criminality and crime prevention in the context of development", working paper prepared by the Secretariat for the Seventh Congress (A/CONF.121/20, para. 114).

12/ See United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, Resource Material Series, No. 30, p. 41 (Fuchu, Tokyo, 1986).

13/ See Council of Europe, "Report on future perspectives regarding crime and criminal justice", CDPC (90) 5 (Strasbourg, 1990).

14/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders ..., para. 30.

15/ Ibid., chap. I, sect. E.

16/ United Nations Social Defence Research Institute, Research and International Co-operation in Criminal Justice, publication No. 29 (Rome, October 1987).

17/ See Council of Europe, Comprehensive (European) Convention on Interstate Co-operation in the Penal Field (Strasbourg, 1986); M. Cherif Bassiouni, "General report for the International Association of Penal Law", in Effective National and International Action against: (a) Organized Crime; (b) Terrorist Criminal Activities (A/CONF.144/NGO.1); and M. Cherif Bassiouni, "Report on a comprehensive strategic approach on international co-operation for the prevention, control and suppression of international and transnational criminality, including the establishment of an international criminal court", working paper prepared for the Committee of Experts on International Criminal Policy and Establishment of an International Criminal Court, held at Siracusa, from 24 to 28 June 1990.